

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE LOPEZ TORRES, ALVIN GAITAN  
BENITEZ, CHRISTIAN LEMUS CERNA,  
OMAR DEJESUS CASTILLO, DOUGLAS  
DURAN CERRITOS, MANUEL ERNESTO  
PAIZ GUEVARA, and JESUS ALEJANDRO  
CHAVEZ,

Defendants.

Crim. No. 1:14cr306

April 12, 2016

JURY TRIAL

BEFORE: THE HONORABLE GERALD BRUCE LEE  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR GOVERNMENT: UNITED STATES ATTORNEY'S OFFICE  
BY: JULIA MARTINEZ, AUSA  
TOBIAS TOBLER, AUSA

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OFFICIAL COURT REPORTER:

RENECIA A. SMITH-WILSON, RMR, CRR  
U.S. District Court  
401 Courthouse Square, 5th Floor  
Alexandria, VA 22314  
(703)501-1580

1 APPEARANCES (Continued)

2 FOR DEFENDANT JOSE LOPEZ TORRES

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LAW OFFICE OF W. MICHAEL CHICK, JR.  
BY: WILLIAM MICHAEL CHICK, JR., ESQ.

FOR DEFENDANT JESUS ALEJANDRO CHAVEZ

JEROME P. AQUINO, ESQ.  
ELITA C. AMATO, ESQ.

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INDEX

PRELIMINARY MATTERS

4

WITNESS (Government) DIRECT CROSS REDIRECT RECROSS

Jose Garcia (Cont.) 29 211 (Not completed)

(Court recessed)

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PROCEEDINGS

(Thereupon, the following was heard in open court at 9:33 a.m.)

(Jury not present.)

THE CLERK: 1:14 criminal 306, United States versus Jose Lopez Torres, Alvin Gaitan Benitez, Christian Lemus Cerna, Omar Dejesus Castillo, Douglas Duran Cerritos, Manuel Ernesto Paiz Guevara, and Jesus Alejandro Chavez; with four of our six interpreters here, Judge.

THE COURT: All right. Good morning. Good morning, everyone.

Good morning, Mr. Omar Dejesus Castillo.

Good morning, Mr. Christian Lemus Cerna.

Good morning, Mr. Manuel Ernesto Paiz Guevara.

Good morning, Mr. Jesus Alejandro Chavez.

Good afternoon -- good morning, Mr. Alvin Gaitan Benitez, Mr. Jose Lopez Torres, and Mr. Douglas Duran Cerritos.

PRELIMINARY MATTERS

THE COURT: Let the record reflect this matter is before the Court on Defendant Douglas Duran Cerritos's oral motion for mistrial.

1           In support of this motion, defendant cites  
2 three instances in which he was referenced as having  
3 been involved in Count 4 for the third superseding  
4 indictment, murder in aid of racketeering.

5           Count 4 relates to the murder of Nelson Omar  
6 Quintanilla Trujillo, allegedly committed by the  
7 defendant and other co-defendants.

8           On March 29, 2016, before the start of the  
9 trial, the government orally moved to dismiss Count 4 of  
10 the indictment against Mr. Cerritos.

11           The Court granted the government's motion  
12 and entered an order directing the government and its  
13 witnesses to refer to Mr. Cerritos as "homeboy number  
14 one" so as to avoid prejudice.

15           The first instance occurred on the first day  
16 of trial on March 30, 2016, when the Court, in its  
17 preliminary instructions, instructed the jury that the  
18 defendant was charged in Count 4 of the indictment.

19           At the close of the Court's preliminary  
20 instruction, it advised the jury that the defendant was  
21 no longer charged in Count 4.

22           The second instance occurred on April 5,  
23 2016, during direct examination of cooperating  
24 codefendant, Jaime Rosales Villegas. During the  
25 government's direct examination of Mr. Villegas, he

1 referred to the defendant as "homeboy number one" with  
2 respect to Count 6 of the indictment.

3 The Court denied the defendant's oral motion  
4 for mistrial and ruled that the defendant shall be  
5 referred to as "homeboy three" so as to prevent  
6 prejudice to the defendant, confusion among the jurors.

7 The third instance occurred on April 11,  
8 2016, during direction examination of the confidential  
9 human source, Jose Roberto Aparacio Garcia, AKA Junior.

10 Before Mr. Garcia took the stand, the Court  
11 recessed for 20 minutes so the government could instruct  
12 Mr. Garcia as to the Court's previous rulings concerning  
13 identifying Mr. Cerritos as homeboy number three in  
14 relation to Count 4.

15 Despite its instruction, Mr. Garcia  
16 inadvertently referred to the defendant by the  
17 pseudonym, homeboy number three, in relation to Count 6,  
18 as he looked at Exhibit 10-A-1 which had Douglas Duran  
19 Cerritos's name on it, and he was then identified as  
20 homeboy number three.

21 The issue before the Court is whether the  
22 Court should grant the defendant's third motion for  
23 mistrial, where there have been three references to  
24 defendant's participation in the murder of Trujillo,  
25 Count 4 of the indictment, which has been dismissed

1 against him.

2 The decision to declare a mistrial rests  
3 within the Court's sound discretion under *United States*  
4 *versus Blake*. And Federal Rule of Criminal Procedure  
5 26.3 states, quote, "Before ordering a mistrial, the  
6 Court must give each defendant and the government an  
7 opportunity to comment on propriety of an order, and to  
8 state whether the party consents or objects and suggests  
9 alternatives," end quote.

10 The Court finds that the severance and  
11 mistrial are unavoidable.

12 The Court and the defendant made numerous  
13 attempts to avoid prejudice to the defendant by, one,  
14 applying the pseudonym of homeboy number one after the  
15 Court granted the government's motion to dismiss; two,  
16 giving the jury a curative preliminary instruction  
17 regarding defendant's nonparticipation in Count 4 of  
18 indictment; and, three, assigning the pseudonym homeboy  
19 three after Mr. Villegas referenced the defendant's  
20 participation in Count 4.

21 Furthermore, throughout the trial, the  
22 jurors have taken notes on notepads furnished by the  
23 Court, and each juror has their own copy of the phone  
24 calls with the speakers' names and alias identified --  
25 aliases identified on the cover sheet. It would not be

1 a great leap for the jurors to make the inference that  
2 Mr. Cerritos is homeboy number one and homeboy number  
3 three, and thus participated in the murder of Trujillo.

4 Despite the Court's further instruction  
5 advising the jurors to consider each count separately,  
6 the fact that there have already been three references  
7 to defendant's participation in Count 4, the Court has  
8 issued a curative instruction and the Court ha assigned  
9 two different pseudonyms, these efforts have failed.

10 Any attempt to issue an additional curative  
11 instruction would only complicate the matter further at  
12 hand and would not unring the bell.

13 Having considered all the arguments and  
14 given due consideration to practical terms, the Court  
15 finds that severance and mistrial of the defendant is  
16 necessary to avoid further prejudice under *Gilliam*  
17 *versus Foster* holding abuse of discretion, because the  
18 judge declared a mistrial without considering  
19 alternatives such as a curative instruction.

20 The Court notes that its grant of the motion  
21 for mistrial does not implicate double jeopardy because  
22 defense moved for mistrial in *United States versus*  
23 *Mosteller*. That's M-o-s-t-e-l-l-e-r. Retrial not  
24 barred because the defendant requested a mistrial.

25 Accordingly, it is hereby ordered that



1 Defendant Douglas Duran's oral motion for mistrial is  
2 granted. It is further ordered that the Defendant  
3 Douglas Duran's case be severed and assigned to a new  
4 judge for trial.

5 It is so ordered. I'll enter a written  
6 order.

7 You all are excused.

8 MR. CRAWLEY: Thank you.

9 THE COURT: Meaning Mr. Cerritos is excused.  
10 Let them go.

11 MR. AQUINO: Judge, two brief matters. The  
12 first deals with the issue about translations.

13 As the government remembers -- as the Court  
14 remembers, when we left on Thursday afternoon, the  
15 government was supposed to make a filing at close of  
16 business yesterday, which they did. They gave us a  
17 portion of the filing before we left yesterday, and then  
18 the complete filing came in last night.

19 And, it's different than I suspected it  
20 would be, which is, it's more in the nature of advocacy.  
21 They supply, basically, an affidavit that's signed by an  
22 FBI agent, rather than more -- more facts, which I  
23 expected would be compliant and responsive to the Court  
24 order. In any event, they made their filing.

25 We have found an additional document that I

1 would like the Court to see --

2 THE COURT: Well, I haven't read these  
3 documents. This is the first time I've seen them this  
4 morning. So I don't -- I would not be able to comment  
5 on them. If you want me to take -- I've just gotten  
6 these this morning.

7 MR. AQUINO: I understand.

8 THE COURT: Okay.

9 MR. AQUINO: I understand and that's fine.  
10 I wanted just to give the Court a sense,  
11 though, of what we found, which is a document that we  
12 obtained from the Department of Justice, Office of the  
13 Inspector General.

14 If we could just play the first page.

15 THE COURT: What do you mean, "play the  
16 first page"?

17 MR. AQUINO: I thought she could -- there it  
18 is. It's up on the screen now.

19 It explains what I'm talking about. And  
20 it's a commentary and an audit by the Office of  
21 Inspector General of the FBI's foreign language  
22 translation program. And page seven and page eight are  
23 really the relevant portions that deal with our issue.

24 Page seven, there's one sentence in  
25 particular -- and I sent this to the government last

1 night after they made their filing. It says,  
2 "Monitor analysts" -- and this is part that's  
3 relevant -- "and contract language monitors" -- again,  
4 we're talking about D'Sa, Portwine and Ms. Vargas --  
5 "contract language monitors are limited to performing  
6 summary translations because of their lower scores on  
7 language translation proficiency tests."

8 The next page, at the bottom, deals with  
9 what they can and can't do. They cannot do verbatim  
10 translations. They cannot testify in court.

11 MS. MARTINEZ: Your Honor, I would object to  
12 this at this stage. There's a sworn declaration which  
13 Your Honor has not had an opportunity to read, and  
14 Mr. Aquino is essentially responding to that with  
15 additional documentation. I suggest that the Court read  
16 the initial filing before listening to Mr. Aquino's  
17 response to that filing.

18 MR. AQUINO: Well, that's fine. I'm not  
19 limiting your ability -- you can review their filing. I  
20 encourage you to do so.

21 The only thing I am suggesting is that we  
22 have a filing that we think is appropriate in this case.

23 THE COURT: Would you like to give it to me?

24 MR. AQUINO: Sure.

25 THE COURT: Do you have a copy of it?

1 MR. AQUINO: Yes, sir.

2 THE COURT: I don't have a copy of it.

3 MR. AQUINO: Judge, we can e-mail the whole  
4 report to your office, but the parts that I'm interested  
5 in are -- is three pages of basically of 130-page  
6 report.

7 And, what I'm suggesting, ultimately, is  
8 this: You've allowed -- we're beyond the issue of  
9 admissibility. You've ruled that they're admissible.  
10 All we're arguing now is weight.

11 And, my solution to this and what I'm  
12 proposing is, the government report comes in and our  
13 report comes in, and we argue that out then in argument  
14 to the jury following a jury instruction that the  
15 defense would propose to the Court.

16 THE COURT: So, am I to take it the defense  
17 has no witnesses? Is that right?

18 MR. AQUINO: On the issue about  
19 translations? That's correct.

20 THE COURT: Oh, okay.

21 MR. AQUINO: That's correct.

22 And so, that's going to be our position,  
23 which is, you review the government report, you review  
24 our report -- and keep in mind when you're reviewing our  
25 report, this is a Department of Justice report. And --

1 and --

2 THE COURT: What I'd like to do, Mr. Aquino,  
3 is to read it. I understand what you just said --

4 MR. AQUINO: Yes, sir.

5 THE COURT: -- and I will read it.

6 MR. AQUINO: And then the last issue --

7 THE COURT: Does the government have a copy  
8 of it, too?

9 MR. AQUINO: They do. I sent that to them  
10 last night.

11 THE COURT: Okay. All right.

12 MR. AQUINO: And we'll send the full report  
13 to you by e-mail.

14 THE COURT: Okay.

15 MR. AQUINO: And then the last issue deals  
16 with the witness we currently have on the stand, Junior.  
17 And I raised with you yesterday the issue about his  
18 adjustment application.

19 And I realize the government's position is,  
20 they don't have their fingerprints on it; that is, he  
21 did it on his own and there it is.

22 But, you know, you practice law for 30 years  
23 and you get some things that bother you. And that  
24 bothers me, because there is an issue about the factual  
25 representations. And you have to make a lot of factual

1 representations on an adjustment application, to include  
2 contacts with law enforcement.

3 And, I take the government at their word  
4 then, at this point. They don't have anything to do  
5 with that adjustment application.

6 But I know somebody that does, and he's  
7 sitting right there. And this is what I propose, and I  
8 need your blessing for this.

9 I have with me a subpoena, and I would like  
10 to issue a subpoena duces tecum such that when he goes  
11 home, effectively, you recognize him for his appearance  
12 as a defense witness, and that in that subpoena duces  
13 tecum, he would be required to bring back to the Court  
14 his adjustment application, if he has it in his  
15 possession.

16 THE COURT: What does that relate to,  
17 Mr. Aquino?

18 MR. AQUINO: I think it relates to his  
19 truthfulness and his veracity. What it goes basically  
20 to is, you have to make a number of factual  
21 representations as to your past history, what you're  
22 doing, your contact with law enforcement.

23 And I think that's relevant to his veracity  
24 in this case. And so, I would ask that he be required  
25 to produce that document and make himself available as a

1 defense witness.

2 Because it's my opinion -- again, I can't  
3 say with certainty until we see it, actually, but, you  
4 just get a feeling over 30 years of law practice that  
5 there's something in that document that goes to  
6 truthfulness that he is not being -- that he was not  
7 candid with the government.

8 THE COURT: Well, it's one thing if he was  
9 not candid to law enforcement who was handling him, and  
10 the law enforcement did something for him.

11 To go on a wild goose chase about whatever  
12 statements he has made in his tax returns or the IRS,  
13 for adjustment, how does it bear on this trial, where  
14 the issue is whether he received something from the  
15 government in exchange for his testimony? How does it  
16 relate to that?

17 MR. AQUINO: Sure. It bears on his  
18 truthfulness. Because, keep in mind, he -- he's  
19 testifying as to two things, his opinion as to the  
20 meaning of those translations -- and so, his  
21 truthfulness, veracity, is -- is really an issue as to  
22 him. It's important.

23 The government is trying to build him up as  
24 a truth-teller. For example, they testify -- they had  
25 him --

1 THE COURT: I want you to focus on my  
2 question. We could pull his tax returns and he could  
3 have lied on his tax returns.

4 MR. AQUINO: Right.

5 THE COURT: My question is whether the  
6 government sponsored his lies on the tax returns.

7 If the government did not sponsor his  
8 application for adjustment --

9 MR. AQUINO: Right.

10 THE COURT: -- it becomes a wild goose chase  
11 to ask if he ever told a lie on his adjustment  
12 application.

13 What is only relevant here, it seems to me,  
14 is whether the government did something for him in  
15 consideration of his testimony as an informant.

16 Do you see my point?

17 I'm not saying you have to agree with it,  
18 but help me understand why I should allow you to go on a  
19 wild goose chase here.

20 MR. AQUINO: I don't characterize it as a  
21 wild goose chase. I characterize it as, he had to make  
22 a filing that dealt with his veracity to the federal  
23 government, namely the United States Immigration  
24 Service.

25 And so, what's contained in that are



1 questions about his contacts with law enforcement. Now,  
2 again, I can't say what's in the report. I haven't seen  
3 it. But, my opinion is it would bear on his  
4 truthfulness.

5 And the government tried to -- to buck him  
6 up yesterday by essentially saying: You didn't rely  
7 upon us, the government, in gaining your green card.

8 And so, I think that those contacts and  
9 what's described in that adjustment application would go  
10 as to whether the jury should find him believable or  
11 not.

12 THE COURT: All right.

13 MS. MARTINEZ: Your Honor, first, just  
14 briefly with respect to the declaration, I have the  
15 original copy of the declaration for the record. It was  
16 signed --

17 THE COURT: Okay. You can file it.

18 MS. MARTINEZ: I'll pass that up to  
19 Mr. Toliver, perhaps.

20 THE COURT: Yes, uh-huh.

21 MS. MARTINEZ: With respect to Mr. Aquino's  
22 motion, Your Honor, the government would -- to the  
23 extent that Mr. Aquino does issue that subpoena, the  
24 government would move to quash it. If Your Honor would  
25 like a written filing, please let us know. But I'm

1 orally moving to quash it, to the extent it is issued at  
2 all.

3 THE COURT: Help me with if it's relevant.  
4 My questions to him were very focused. Can you address  
5 those?

6 MS. MARTINEZ: Yes, Your Honor.

7 I believe that it is not relevant. If there  
8 were something exculpatory in there, and that the  
9 government was aware of, we certainly would be obligated  
10 to provide that exculpatory information to defense  
11 counsel, and certainly we would do so.

12 But, there is no grounds to simply pull  
13 someone's immigration file on a, essentially a -- a  
14 hunch. Mr. Aquino said, "you get a feeling."

15 He wants to look through an immigration  
16 file, which contains a vast amount of personal  
17 information, family information, biographical  
18 information, and information that's simply not relevant  
19 to this case or to this witness's testimony.

20 As this witness testified, he -- he obtained  
21 his green card separate and apart from his cooperation  
22 with the government. Whatever filings he did with the  
23 aid of an immigration attorney as a private citizen, and  
24 not with the assistance of law enforcement, is  
25 irrelevant to his testimony in this case.

1           We're aware of no impeachment or exculpatory  
2 information beyond what has already been provided. I'll  
3 give an example -- because, of course, Your Honor, we  
4 don't produce our *Giglio* disclosures to you --

5           THE COURT: I had the impression that Agent  
6 Born testified that she filed an application, but she  
7 doesn't know if it was ever processed; is that right?  
8 For an S Visa?

9           MS. MARTINEZ: And that's a different  
10 application.

11          THE COURT: Right.

12          MS. MARTINEZ: That's not what he ended up  
13 getting.

14          THE COURT: Exactly. Right.

15          MS. MARTINEZ: And that information was  
16 disclosed to defense counsel during our *Giglio*  
17 disclosures.

18                 In addition to that, the government did  
19 write a letter in support of his immigration  
20 proceedings. That letter was provided, verbatim -- a  
21 copy of the letter was provided to defense counsel.

22                 To the extent that the government aids this  
23 witness with his immigration proceedings, we agree  
24 completely that that's disclosable, and we have  
25 disclosed that.

1 But a motion to get a subpoena to obtain an  
2 entire immigration file based on a private citizen's own  
3 pursuit of obtaining a green card separate and apart  
4 from law enforcement, there's no basis for that. It's  
5 not relevant and it's a gross invasion of privacy.

6 THE COURT: All right.

7 MR. LEIVA: Your Honor --

8 MS. MARTINEZ: And, I'm sorry, Your Honor.  
9 Just for the record, the signed declaration that we  
10 submitted, the original copy is just the declaration.  
11 But as we filed with Your Honor and brought up courtesy  
12 copies, there are attachments to that declaration, which  
13 are the policies that Your Honor requested.

14 THE COURT: I need to see the original of  
15 the whole thing.

16 MS. MARTINEZ: I have a -- the original --

17 THE COURT: Yeah. Give me the whole thing.

18 MS. MARTINEZ: The original is in that  
19 envelope. And I have a full --

20 THE COURT: Oh. Okay.

21 MS. MARTINEZ: -- printed -- that's the  
22 original declaration. I have a copy -- and we sent up a  
23 courtesy copy this morning. This is a copy of what we  
24 filed, which includes the attachments.

25 THE COURT: Let me see the attachments, too.

1 MS. MARTINEZ: Yes.

2 THE COURT: Thank you.

3 MR. AQUINO: Judge, very briefly. On the  
4 issue, again, about the I-485, which is what I'm talking  
5 about, I'm looking at an example right now.

6 He testified yesterday about, that he was  
7 authorized -- and the case agent, I believe, Ms. Born  
8 testified that he was authorized to engage in drug  
9 transactions. In addition, there was an issue that they  
10 raised about prostitution.

11 So, for example, in the adjustment  
12 application, they ask, "Have you ever, in or outside the  
13 United States, knowingly committed any crime of moral  
14 turpitude or drug related offense for which you have not  
15 been arrested," requiring him to answer that question.

16 Likewise, "Within the past ten years, have  
17 you been a prostitute or procured anyone for  
18 prostitution or intended to engage in activities in the  
19 future?"

20 So, again, counsel is right, I can't say  
21 precisely what's in that report --

22 THE COURT: So you have no idea what's in  
23 the report, do you?

24 MR. AQUINO: No, I don't. But it bears  
25 on -- but it bears on what he testified to yesterday.

1           THE COURT: It only bears on it if he lied  
2 about the government sponsoring his application. And  
3 you have no evidence of that. You've had an FBI agent  
4 testify that she -- what she did. You've had a chance  
5 to cross-examine her about that.

6           MR. AQUINO: Understood.

7           THE COURT: And you have his testimony.

8           It's only relevant if the government  
9 sponsored it as a part of his consideration for being an  
10 informant.

11           What he has done with his tax return and  
12 employment applications is very far afield from what  
13 would be proper impeachment, I think.

14           Did you want to say something, Mr. Leiva?

15           MR. LEIVA: Yes, Your Honor. I know it's  
16 not my subpoena duces tecum, but what I got from Agent  
17 Born, she was very good about parsing words and she was  
18 very careful about the words that she used when she  
19 responded to my questions on cross-examination.

20           My concern is that the government omitted  
21 certain information to Homeland Security, which would  
22 have prevented this gentleman from changing his status.

23           In other words, the government is saying:  
24 We weren't proactive in helping him get his legal  
25 permanent residency status.

1 But another way that the government can help  
2 is also by omission. In other words: We're not going  
3 to report certain conduct that you've committed, because  
4 we know it may prevent you from getting legal status in  
5 this country.

6 So, that is my concern. That's why I think  
7 I would want that information as well, is that you have  
8 to prove that you were of good moral character while in  
9 this country, or when applying for a change of status.

10 And if the agreement, whether it was -- it  
11 was tacit or implicit by the government was: "Whatever  
12 you do for this ten years that you're with MS-13, two of  
13 which you're the leader of a -- of a notorious clique,  
14 we're not going to report, because we know by doing so  
15 it's going to prevent you from changing legal status or  
16 make it that much more difficult for you to get legal  
17 status in this country," I think that is relevant.

18 THE COURT: If you had a factual basis for  
19 it, I would understand it.

20 MR. LEIVA: Well --

21 THE COURT: Do you have a factual basis for  
22 it?

23 MR. LEIVA: I think -- well, what I'm hoping  
24 to do is, based on cross-examination, Your Honor, maybe  
25 we can review this issue. Because it's hard for me to

1 believe that someone who is in MS-13 for ten years, two  
2 of which they're a leader of a particular clique, is not  
3 involved in any kind of criminal activity whatsoever.

4 THE COURT: Well, in court we focus on  
5 evidence. And I --

6 MR. LEIVA: I understand.

7 THE COURT: -- understand your -- I  
8 understand your suspicions and I understand intuition,  
9 but those things are not evidence.

10 Let the record reflect that --

11 MR. LEIVA: Thank you, Your Honor.

12 THE COURT: -- I have considered whether or  
13 not defense counsel should issue a subpoena duces tecum  
14 for the A-file of the witness, Junior, to ascertain what  
15 statements, if any, he made on the A- application for a  
16 green card, which Junior testifies that he has.

17 I have no evidence before me that the  
18 government sponsored his application for a green card or  
19 in any way had contact with Immigration on his behalf.

20 Agent Born testified that she prepared an  
21 S- application. Nothing became of it -- at least that's  
22 my recollection -- and he did not obtain the S Visa  
23 based upon the government's request. And there is no  
24 indication that she made any application on Junior's  
25 behalf.



1           The defense is welcome to question Mr. --  
2 Junior about whether the government sponsored his  
3 application for a green card. And if some facts appear,  
4 then I can consider it. But at this moment right now,  
5 there's no facts to consider, and it seems to me it  
6 would be just speculation and a fishing expedition to go  
7 looking around, based on 40 years of experience and  
8 30 years of experience and hunches. We don't make  
9 judgments about hunches.

10           We're in recess until 10:00 o'clock. Thank  
11 you.

12           MR. CRAWLEY: Your Honor, we have --

13           THE COURT: Yes, sir.

14           MR. CRAWLEY: Good morning again.

15           THE COURT: Good morning --

16           MR. CRAWLEY: Dwight Crawley --

17           THE COURT: -- Mr. Crawley.

18           MR. CRAWLEY: -- on behalf of Mr. Cerritos.

19           There are several issues that I know my  
20 client is going to want us to be able to answer.

21           First, I'll start with this material. As  
22 Court has issued an order, or will issue an order  
23 granting severance, these documents have been kept in  
24 the courtroom under the security of the court personnel.

25           If we leave today -- a lot of these

1 documents have been written in by defense counsel and  
2 marked up, so it contains a substantial amount of our  
3 highlighted information.

4 THE COURT: Do you want me to take custody  
5 of it?

6 MR. CRAWLEY: That would be --

7 THE COURT: All right. I'll take custody of  
8 it. If you make me a list of whatever the notebooks  
9 are, we will take custody. We will put them in a box  
10 and keep them in chambers.

11 Is that it?

12 MR. CRAWLEY: No, sir, Your Honor.

13 THE COURT: All right.

14 MR. CRAWLEY: The other issue is -- I know  
15 the Court indicated that it would be assigned to another  
16 judge.

17 As the Court can imagine, my client will be  
18 facing at this point one charge, which is the Count 6  
19 charge. However, he is in custody.

20 So, we were trying to get some guidance on  
21 how fast that would be done. Because he may have a bond  
22 issue. He may wish to file something regarding his  
23 status with bond.

24 And without any understanding as to when  
25 this case is going to be heard, who's going to be

1 assigned the case, we're -- we're kind of left in limbo  
2 regarding that issue, Your Honor.

3 I know the Court would say, "Mr. Crawley, do  
4 what you need to do, file whatever you wish to file" --

5 THE COURT: I would just say to you that I  
6 believe it's only been 15 minutes ago I issued the  
7 order.

8 MR. CRAWLEY: I understand, Your Honor.

9 THE COURT: And I know we're fast here,  
10 but --

11 MR. CRAWLEY: I understand, Your Honor.

12 THE COURT: -- I have -- I don't even think  
13 the order has been recorded for the clerk to even look  
14 at it yet.

15 But, I mean, if you want me to go call some  
16 judge up right now and have me do that, I'm happy to do  
17 that. But it doesn't work that fast.

18 MR. CRAWLEY: I understand, Your Honor.

19 THE COURT: Yes. But you can tell your  
20 client it's going to take a little while to get another  
21 judge assigned. Then you will be able to approach that  
22 judge for a new trial date and all that.

23 MR. CRAWLEY: I understand, Your Honor.

24 And then, finally, although we respect the  
25 Court's opinion and we definitely appreciate it, we

1 would respectfully ask for leave to file any motions  
2 regarding whether or not we believe that jeopardy has  
3 attached and, therefore, any retrial would be  
4 prohibited. I understand Court's position with respect  
5 to that.

6 THE COURT: I'm not -- any motion you want  
7 to file with a new judge, you can file.

8 MR. CRAWLEY: Thank you, Your Honor.

9 THE COURT: And that judge is not bound by  
10 any of my rulings.

11 MR. CRAWLEY: Thank you, Your Honor.

12 THE COURT: All right.

13 Recess till 10:05. Thank you.

14 (Court recessed at 9:57 a.m. and reconvened  
15 at 10:10 a.m.)

16 THE COURT: Ready to bring the jury out?  
17 You can bring our jurors out, Mr. Toliver.

18 Thank you.

19 Could you bring the witness back?

20 (Jury present at 10:11 a.m.)

21 THE COURT: You may be seated.

22 Good morning, ladies and gentlemen.

23 THE JURORS: Good morning.

24 THE COURT: Good morning, Mr. Omar Dejesus  
25 Castillo.

1 Good morning, Mr. Cerna.

2 Good morning, Mr. Jose Lopez Torres.

3 Good morning, Mr. Benitez, Mr. Guevara and  
4 Mr. Alejandro Chavez.

5 We'll bring our witness back and we'll  
6 proceed.

7 THE COURT: Good morning, Counsel.

8 MS. MARTINEZ: Good morning, Your Honor.  
9 (Witness resumed stand.)

10 THE COURT: Good morning, Mr. Garcia.  
11 You may proceed, Counsel.

12 THEREUPON, JOSE GARCIA, previously duly  
13 sworn, testified further as follows:

14 DIRECT EXAMINATION (Continued)

15 BY MS. MARTINEZ:

16 Q. Good morning.

17 A. Good morning.

18 Q. When we left off yesterday, we were on  
19 Government's Exhibit 10-A-1.

20 MS. MARTINEZ: If we can pull that up on the  
21 screen. All right.

22 BY MS. MARTINEZ:

23 Q. So, I think we covered yesterday -- this is a  
24 3/31 recording with you, Pesadilla and Lil Poison; is  
25 that right?

1           A.    Yes.

2           Q.    And just to be clear, Pesadilla, is that the same  
3   Pesadilla that you identified in court yesterday?

4           A.    Yes.

5           Q.    All right.

6                   MS. MARTINEZ: Could we show the witness  
7   what has been marked as Government's Exhibit 69-D.

8   BY MS. MARTINEZ:

9           Q.    Do you recognize that person?

10          A.    Yes.

11          Q.    Who is that?

12          A.    That's Lil Poison from PVLS.

13                  MS. MARTINEZ: Your Honor, we move to admit  
14   Government's Exhibit 69-D.

15                  THE COURT: Received.

16                  MS. MARTINEZ: May we publish?

17                  THE COURT: Yes.

18                  MS. MARTINEZ: Mr. Toliver, could we show  
19   the witness now what has been marked as Government's  
20   Exhibits 68-A and 68-B.

21                  For the record, I believe 68-A is in  
22   evidence, but 68-B is not yet.

23   BY MS. MARTINEZ:

24          Q.    Do you recognize that individual?

25          A.    Yes.

1 Q. Who is it?

2 A. It's Lil Pesadilla or Lil Tuner from PVLS.

3 Q. Both pictures?

4 A. Yes.

5 MS. MARTINEZ: We move to admit 68-B, which  
6 I believe is not yet in evidence.

7 I believe 68-A is in. If it's not, we would  
8 move that in as well at this time.

9 THE COURT: I believe A is already in, but B  
10 will be received.

11 MS. MARTINEZ: Your Honor, may we publish  
12 68-A, please?

13 THE COURT: Yes.

14 BY MS. MARTINEZ:

15 Q. All right. Returning to the transcript, to this  
16 March 31st call with these two individuals, let's go to  
17 page two.

18 Would you please read this page and look up when  
19 you're finished, and I'll ask you a few questions.

20 A. Okay.

21 Q. First of all, who is CHS in this conversation?

22 A. That's me.

23 Q. And, AG is Pesadilla?

24 A. Yes.

25 Q. What are you and Pesadilla talking about on this

1 page?

2 A. We're talking about the murder of Lil -- Lil  
3 Guasón.

4 Q. Who was Lil Guasón?

5 A. He was a recruit from PVLS.

6 Q. Were you able to find out approximately when the  
7 murder occurred in relationship to this March 31st call?

8 A. It was the night before last.

9 Q. The night before -- two nights before this  
10 March 31st call?

11 The second thing that Pesadilla says on this  
12 page, he says, "I'm going to go to another show, same as  
13 the one from -- from the night before last." What did  
14 you understand that to mean?

15 A. That something happened. They did something that  
16 night.

17 Q. What night?

18 A. The night that he's talking about, two nights  
19 before.

20 Q. What did you learn from Pesadilla that they did?

21 A. That they killed Lil Guasón.

22 Q. Continuing down the page, towards the middle of  
23 the page, Pesadilla says, "You know that those issues  
24 are to stay between the runner and the homeboys." What  
25 does that mean?



1       A.    The -- that it should be between -- within the  
2   clique and the first word of his clique. It shouldn't  
3   be -- they shouldn't be talking to anybody else.

4       Q.    What kinds of issues?

5       A.    Well, when they commit a murder or any --  
6   anything that they think that someone shouldn't know it.

7       Q.    Why is Pesadilla talking about keeping  
8   information between homeboys and the runner?

9       A.    Because, that -- that's the rule of the clique.  
10   They shouldn't be talking to anybody else when they  
11   commit a -- a murder or any other crime.

12       Q.    Pesadilla continues, "But I trust you a shit  
13   load, homeboy." What did you understand that to mean?

14       A.    That he trust me.

15       Q.    Would he otherwise be permitted to you to talk  
16   about this murder that his clique had committed?

17       A.    No. I mean, he trust me without the -- the  
18   clique knowing that he was talking to me.

19       Q.    Pesadilla then says, "I ripped that dude's  
20   coconut off." What did you understand "coconut" to  
21   mean?

22       A.    They ripped the head of Lil Guasón.

23       Q.    Continuing, Pesadilla says, "The recruit," and  
24   you say, "Lil Guasón?" Why did you say his name?

25       A.    Because I learned that was one of the recruits

1 that they have at that time, Lil Guasón.

2 Q. Then you ask, "What's going on? What, what? You  
3 fucked him up, or what happened?" What were you  
4 reacting to there?

5 A. Because, I just wanted for him to explain me what  
6 happened, you know. I want to go on details and ask him  
7 detail. I just want him to tell me what happened.

8 Q. Why did --

9 A. What they did to him.

10 Q. Why did you want to know what they did to him?

11 A. Because we already -- I already know that he's  
12 dead. So at that point, I just need to know where they  
13 kill him, where -- where was him.

14 Q. Pesadilla then says, "We talked amongst our  
15 clique. We talked with homeboy Poison. We talked with  
16 Payaso. We talked about his issues, you know." What  
17 did you understand that to mean?

18 A. That they talked to the guy that they think they  
19 should talk to, to get the okay in order to kill Lil  
20 Guasón.

21 Q. Why did they need to get an okay?

22 A. Because it's the rule of the clique. They need  
23 to get the okay and show the cause why they think they  
24 need to get rid of any people.

25 Q. Pesadilla continues to say, "His failure, and we

1 presented everything." What do you understand that to  
2 mean?

3 A. That they show -- they talk to him and they show  
4 to the other guys that they think that they're the shot  
5 callers, enough proof why this guy, we should kill him.

6 Q. Pesadilla says, "We were going to leave it alone,  
7 you know, the issue of scamming, you know, the hood, and  
8 the homie didn't follow orders, you know. So then, you  
9 get me?" What did you understand that to me.

10 A. Lil Guasón, he didn't follow the rules. And, one  
11 of the rules is you can't scam the clique or take money  
12 from the clique, or lie -- or lie to the clique.

13 Q. What happens if you take money or lie to the  
14 clique?

15 A. They will kill you.

16 Q. Please continue to page three. The first line on  
17 page three is you, and you ask, "Did the homie already,  
18 already go to the other side?" What were you asking?

19 A. I was asking if he was already dead.

20 Q. Why were you asking that?

21 A. Just to make sure he's dead.

22 Q. Why did you want to know if he was already dead?

23 A. To get information to my handler, like just to  
24 make sure that, you know, he's dead and they need to  
25 start looking for him.

1 Q. In the middle of the page, in between those black  
2 boxes, Pesadilla says, "We're not going to get a fucking  
3 light turned on just for nothing, though. We talked  
4 things -- things out first, then, right." What do you  
5 understand that to mean?

6 A. Like I said, they -- they get the okay for --  
7 from the shot callers just to put a green light. Green  
8 light means they have the okay to kill whoever they  
9 think that they're going to kill.

10 Q. Let's go to page five, please.  
11 Please read this page and look up when you're  
12 done.

13 A. Okay.

14 Q. The top of the page, the first block of text by  
15 you, what are you asking about?

16 A. I was -- I just asking why is it they were cool  
17 with him, and all of a sudden they decide to kill him,  
18 if, you know, he was okay with them.

19 Q. What do you mean by "okay with them"?

20 A. They used to talk to him. I learned that they  
21 used to send him to buy stuff, or talk to him like a --  
22 like a regular person, and then all of a sudden they  
23 decide to kill him.

24 Q. Pesadilla responds, "That's exactly why, because,  
25 you know, when a person has your information and knows a

1 lot about you, you run the risk of" -- what did you  
2 understand him to mean?

3 A. I understand that, I mean, he knew a lot about  
4 them and, you know, they -- they cannot just let him  
5 alone. So, if they think that it's something that he  
6 can talk to a police or tell anybody, they might as  
7 well -- they're going to kill him.

8 Q. And again, who are we talking about here?

9 A. Lil Guasón.

10 Q. Continuing down the page, you asked, "It won't  
11 come back to bite you with that homie there in Culmore,  
12 with all of the -- the mother when they can't find that  
13 homie?" What are you asking about?

14 A. I was asking if, like I said, when somebody's  
15 missing, my first thought is the family member going to  
16 start calling the police and look for him. And that's  
17 what I meant, what my reaction, if the police are not  
18 going to start looking for them -- for him, and, find  
19 out that he's missing.

20 Q. Why is your first reaction to think of the  
21 family, when you find out someone is missing or hurt?

22 A. Because that's the first thing the family member  
23 will do, for significant -- significant other, I  
24 believe.

25 Q. Pesadilla responds a couple lines later, "No,

1 man, no. And what if? If they ask, he's in jail."

2 What did you understand that to mean?

3 A. That he was dead, because, I learned that --  
4 that's what -- the same thing that they say about  
5 Lagrima.

6 Q. And on that point, Pesadilla says, "Oh, the same.  
7 Lagrimas is in jail, too." Did you understand him to  
8 mean jail, literally?

9 A. No. They were -- they were dead.

10 Q. Let's continue to page six. Please read this  
11 page and look up when you're done.

12 A. Okay.

13 Q. Starting at the top of the page, you asked him,  
14 "Where did that homie end up, over there at the same" --  
15 what are you asking?

16 A. I'm asking where -- where the body was, where  
17 they kill him.

18 Q. Why did you want to know where the body was?

19 A. Because, I was -- I was trying to find out where  
20 to give information to my handler.

21 Q. Pesadilla has a very long response. In the  
22 middle of that long response, he says, "I took another  
23 two doggies, people to fucking dig. I made the hole."  
24 First of all, what did you understand "doggies" to mean  
25 in that sentence?

1           A.    Homeboys.

2           Q.    And when he says "dig" and "made the hole," what  
3 do you understand that to mean?

4           A.    They make a hole to -- to bury Lil Guasón after  
5 they kill him.

6           Q.    He continues to say, "We dropped in on him with  
7 the excuse that we were going to correct him." What did  
8 you understand him to mean by the excuse that they would  
9 correct him?

10          A.    Because, since he owns (sic) -- he owns money and  
11 he didn't pay, up, so, you know, they going to give him  
12 the punish, which is a beat up -- beating for 13  
13 seconds, with that excuse. But they end up killing him.

14          Q.    And when he says "excuse," what do you understand  
15 that to mean?

16          A.    That's excuse, a recruit or whoever, he's related  
17 with the gangs, they know that, because they did  
18 something wrong, there would be a punish, and they will  
19 think that they will get a beat -- a beating for 13  
20 seconds.

21          Q.    And did you learn whether he was beat or  
22 something else?

23          A.    I learned that he was killed.

24          Q.    Pesadilla continues and says, "Because, he needed  
25 to, to take care of the 600 bucks." What did you

1 understand that to mean?

2 A. That he had -- he had to pay the 600 bucks, but  
3 he didn't pay it.

4 Q. Did you learn anything more about that 600 bucks  
5 from other gang members?

6 A. Yes. It was -- other members say the same thing,  
7 that he didn't pay the \$600.

8 Q. Who did he need to pay the \$600 to?

9 A. To the clique, the PVLS clique.

10 Q. What's wrong with not paying back money that's  
11 owed to the clique, MS-13?

12 A. They -- they would think that people stealing  
13 from them.

14 Q. Is there a rule against stealing from the clique?

15 A. Yes.

16 Q. What's the consequence for stealing from the  
17 clique?

18 A. They can kill you.

19 Q. Then you ask, after that long paragraph, "When?  
20 On Saturday?"

21 Pesadilla responds, "That's right, Saturday."

22 What were you trying to confirm there?

23 A. I was trying to confirm the day, and see if -- if  
24 it was true that they kill him.

25 Q. Continuing, Pesadilla says, "That's when we hit



1 him." What did you understand "hit him" to mean?

2 A. Kill him.

3 Q. After Pesadilla repeats that same phrase, you  
4 say, "Didn't the homie -- didn't see it, didn't think it  
5 was fishy that you guys told him you were going to the  
6 park, homie?"

7 Why did you ask whether Lil Guasón thought it was  
8 fishy to go to the park?

9 A. Lil Guasón knew at some point about Lagrima,  
10 about the park as well. And, going to the same park, at  
11 night, I mean, it was very clear that it wasn't  
12 something nice for them to offer to Lil Guasón.

13 Q. When you say Lil Guasón knew about Lagrima, how  
14 do you know that Lil Guasón knew about Lagrima?

15 A. Because, I learned in conversation that they talk  
16 about -- he knew at some point, not much, but he knew  
17 that they kill Lagrima for different issues.

18 Q. Was Lil Guasón involved in the murder of Lagrima?

19 A. Not that I know of.

20 Q. Continuing, towards the end of the page -- at the  
21 end of the page in that long response, Pesadilla says,  
22 "We were already waiting for him. He got there, and I  
23 still made him light me a cigarette, dog, light my  
24 cigarette, dude. The dude lit it up, and I smoked it as  
25 we were going down." What do you understand that to

1 mean?

2 A. Lil Guasón, he thought that he was going to get  
3 just a beating. He -- he didn't know what was -- what  
4 was waiting for him.

5 Q. When Pesadilla says that he made Lil Guasón light  
6 his cigarette, do you understand that he literally meant  
7 he made him light his cigarette?

8 A. Yes.

9 Q. And when did he -- did Pesadilla make Lil Guasón  
10 light his cigarette for him?

11 A. When they were going to the park.

12 Q. For what?

13 A. To kill him. To kill Lil Guasón.

14 Q. At the end of the page, Pesadilla says, "I was  
15 calm with the knife in my hand. When he throw -- when  
16 they knock him down, whomp, right then and there I  
17 ripped his coconut off." What did you understand that  
18 to mean?

19 A. He went at him and he ripped his head off.

20 Q. Why did he use the word "coconut"?

21 A. Because that's the -- the word that gang use to  
22 refer to head. It could be coconut, could be onion,  
23 whatever shape or form of the head, they use it.

24 Q. Why would they use a code there?

25 A. It's just a code that, you know, that way they

1 think then, nobody's listening to them.

2 Q. Continue to page seven, please. I'm just going  
3 to ask you about that last long response from Pesadilla  
4 at the bottom of the page. If you can read that,  
5 please.

6 A. Okay.

7 Q. What do you understand him to be talking about  
8 there?

9 A. About the -- how he kill Lil Guasón.

10 Q. He says, "Ah, doggies, I tell them, 'Finish him  
11 off,' and the doggies ran to get the knife to finish him  
12 off." Who are the doggies?

13 A. The homies.

14 Q. What do you understand him to mean when that "the  
15 doggies ran to get the knife to finish him off"?

16 A. Um, that they -- after he start stabbing him, the  
17 other guys start participating in finish, try to kill  
18 him, Lil Guasón.

19 Q. Participate how?

20 A. By killing him, by stabbing him, by doing  
21 whatever they doing with the knife.

22 Q. Continue to page eight, please. Please read this  
23 page through the end of that long response by Pesadilla  
24 in the middle, and I'll ask you questions about it.

25 A. Okay.

1 Q. Towards the top of the page, the second thing you  
2 say, you ask about recruits. Why were you asking  
3 Pesadilla about recruits?

4 A. Because I know they have some other recruits.

5 Q. And what did you want to know about recruits in  
6 this -- in this conversation?

7 A. Because, I know the recruits just waiting for an  
8 opportunity to kill someone to become a gang member, and  
9 I want to know if there was any -- any recruit involved  
10 on killing Lil Guasón.

11 Q. Why would you think a recruit would be involved  
12 in killing Lil Guasón?

13 A. Because, that's -- that's the rule that they  
14 have, in order to -- for any recruit become a homeboy.

15 Q. Was there a recruit involved in killing Lagrima?

16 A. Yes.

17 Q. Who was that?

18 A. Little Slow.

19 Q. Pesadilla responds and says, "There's already  
20 that homie, that recruit we already -- we had, has  
21 already done a hit. Solitario." What do you understand  
22 him to mean, "has already done a hit"?

23 A. He already kill. He already kill Lil Guasón.

24 Q. Who is Solitario?

25 A. He was a recruit from PVLS.

1 Q. Had you ever met him?

2 A. Once.

3 Q. Did you speak to him on the phone?

4 A. Not that I can recall.

5 Q. Continuing, Pesadilla says, "He doesn't want to  
6 get jumped in until June, so that -- so that it's Friday  
7 the 13th."

8 First of all, who is he talking about, who  
9 doesn't want to get jumped in until Friday the 13th?

10 A. Solitario.

11 Q. What's the significance of Friday the 13th to the  
12 gang?

13 A. The gang think that Friday the 13th is related to  
14 the devil. So, every Friday the 13th, they either go  
15 and look for killing rival gangs, or to do some crazy  
16 stuff.

17 Q. What did you understand the significance to be  
18 that Solitario wanted to wait until Friday the 13th to  
19 be jumped in?

20 A. Because he think it's a unique day for the  
21 devil's day, he will join the gang that day.

22 Q. Pesadilla says, "The thing is, he didn't know --  
23 he thought that we were just going to discipline that  
24 dude." What did you understand that to mean?

25 A. They thought they were just going to get a

1 beating, Lil Guasón, just a beating for the \$600.

2 Q. Pesadilla then says, "Yes, the homie already  
3 wet." What do you understand "wet" to mean?

4 A. That he already kill.

5 Q. Why does "wet" mean kill?

6 A. Well, he's used for them, if they kill, they got  
7 wet, like, they got blood on their hands, they wet --  
8 they got wet. That's what that means.

9 Q. Who do you understand Pesadilla to be saying  
10 already killed someone?

11 A. Solitario.

12 Q. Let's continue to page nine. Please review that  
13 page up to the black boxes, and I'll ask you a couple  
14 questions.

15 A. Okay.

16 Q. The second thing you say on this page is, you say  
17 the name Lil Payaso. Who is Lil Payaso?

18 A. The gang member from PVLS.

19 Q. Is that the Lil Payaso that you identified in  
20 court?

21 A. Yes.

22 Q. Why did you ask about Lil Payaso here?

23 A. Because I wanted to know who else was involved in  
24 Lil Guasón's murder.

25 Q. When you say "Lil Payaso didn't drop by man,"

1 what are you asking?

2 A. He was part of -- if he went to kill Lil Guasón  
3 as well.

4 Q. How did Pesadilla respond?

5 A. He say yes.

6 Q. What did you understand him to mean when he said,  
7 "Lil Payaso was the one that knocked him down"?

8 A. He was the one who -- who hit Lil Guasón and  
9 knock him down to -- to the ground.

10 Q. Further down the page, Pesadilla says, "No, man,  
11 that dude's last words, 'you got me in the face.'" Who  
12 do you understand him to be talking about?

13 A. Lil Guasón.

14 Q. Pesadilla says, "'That's right,' I tell him.  
15 'The Mara's train has taken you, you son of a bitch, for  
16 being a fool.'" What do you understand that to mean?

17 A. I understand that MS-13 has taken your life. So,  
18 pretty much make it very clear that the Mara, the MS,  
19 had to take him -- had to be life.

20 Q. Whose life?

21 A. Lil Guasón.

22 Q. What does he mean by "the Mara's train"?

23 A. Because, they call -- they call the Mara, like  
24 sometimes they use as a train, like, they take you, and  
25 it doesn't mean that they're going to come back. It

1 just take you.

2 Q. At the very end of that same excerpt there,  
3 Pesadilla says, "pa, pa, pa." What does that?

4 A. What I understand it was, the way that he kill  
5 Lil Guasón -- how I talk to him, he sound like the way  
6 that he stabbed Lil Guasón, you know, with going crazy  
7 at Lil Guasón and stab him.

8 Q. What was Pesadilla's tone of voice when he was  
9 telling you about this?

10 A. He felt proud. He felt proud.

11 Q. Please turn to page ten. Please read this page  
12 and look up when you're done.

13 A. Okay.

14 Q. At the top of the page, Pesadilla says, "If I  
15 know that I fucked up, well, right, I know what the  
16 consequences are, right?" What do you understand him to  
17 mean?

18 A. That he -- he knows the gang rules. If you don't  
19 follow the rules, you're going to get killed.

20 Q. You respond, asking, "Why that homie couldn't pay  
21 that dough, man?" And you continue asking the same  
22 question. What are you asking about?

23 A. I'm asking him, if -- they used Lil Guasón to  
24 send him to buy drugs, sell drugs, or do any favor that  
25 they need to. Why they, you know -- it was easy for --



1 for them to give him a chance or for Lil Guasón get the  
2 money. It was just 600 bucks.

3 Q. Did they give him a chance?

4 A. He -- the way that he explain to me, that they  
5 did, but, Lil Guasón didn't -- didn't pay it.

6 Q. At the end of that long response from Pesadilla,  
7 immediately following, he says, "People that vices, you  
8 know, and people, you know, that -- that brings heat to  
9 the hood and are disrespectful to the hood, that doesn't  
10 work, you know."

11 What do you understand that to mean?

12 A. If -- if someone is not willing to show them to  
13 the clique or the gang, they're not a hundred percent  
14 sure that they want to be in the gang, they -- they  
15 rather get rid of those persons.

16 Q. Continuing down the page to the next long  
17 response from Pesadilla, in the second line he  
18 references when Lagrima was hit. Do you understand why  
19 he was referencing Lagrima in the conversation?

20 A. Yes. Because he used to talk to Lil Guasón,  
21 sometimes and tell, look, when Lagrima was hit -- was  
22 killed, and, you know, just to -- how you say, kind of  
23 warn, give him the warning to Lil Guasón that that could  
24 happen to him as well.

25 Q. Was it standard for the clique to warn *chequeos*

1 about what would happen if they broke rules?

2 A. They -- yes, they will -- they will warn, yes.

3 Q. Continuing, Pesadilla says, "Look, dog, yeah, I  
4 only have to be told once that it's prohibited to con  
5 the hood." What do you understand that to mean?

6 A. He knows the rules here. He's not supposed to do  
7 anything that he's prohibited, in the clique or in the  
8 gang.

9 Q. What does "con the hood" mean?

10 A. Means that -- that you had to -- you -- you  
11 cannot, I would say, scam the clique and where they  
12 live, because that's not acceptable for them.

13 Q. What would happen if you did?

14 A. They would get you.

15 Q. Please turn to page 11. Please read page 11 and  
16 look up when you're done.

17 A. Okay.

18 Q. At the top of the page, you say, "What I don't  
19 understand is why he did those things if he was a  
20 recruit." What is the role of a recruit in MS-13?

21 A. A recruit, they know that they have to always  
22 follow full gang member, and not be disrespectful of  
23 them in any way. Whatever a gang member says, even if  
24 they are wrong, they cannot say anything else.

25 Q. Pesadilla responds, "Look, man, it's being

1     disrespectful. I being a homeboy wouldn't tell a  
2     recruit what he's a little fool. What I do is, I don't  
3     scold him. I get his attention and I explain things to  
4     him."

5             What do you understand that to mean?

6             A. That he was explaining to Lil Guasón the rules,  
7     and not to -- he felt like Lil Guasón was disrespectful  
8     to him, even though Lil Pesadilla was already a homeboy,  
9     and Lil Guasón was just a recruit.

10            Q. When someone is a recruit in the gang, who is  
11     responsible for teaching the recruit the rules of the  
12     gang?

13            A. The gang and the homeboys.

14            Q. Continuing down the page, Pesadilla says, "It was  
15     almost a year of, right, like seven, six months of being  
16     a recruit, and you're not going to get with it, man."  
17     What do you understand that to mean?

18            A. That -- I understand that Lil Guasón wasn't --  
19     wasn't into -- wanted to be full gang member. He just  
20     wasn't paying attention to -- to that. He was doing his  
21     own thing.

22            Q. You asked, "The homie didn't seem like he wanted  
23     to do a hit?" Why did you ask that?

24            A. Because that's -- just refers -- a recruit,  
25     that's what they're looking for, kill someone to become

1 a gang member.

2 Q. How did Pesadilla respond?

3 A. He wasn't -- he wasn't willing to put an effort,  
4 or always when Pesadilla come up with something like  
5 a -- do a hit, he always will -- he will take off or  
6 play excuse and probably not show up. But he wasn't  
7 into wanting to kill anybody.

8 Q. What is a hit?

9 A. A killing. Killing someone.

10 Q. When you say "take off or make an excuse," what  
11 do you mean by that?

12 A. It just like I would say, just buying time, not  
13 to -- not to kill anybody, and pull excuse.

14 Q. Continuing down the page, in that long response  
15 from Pesadilla, in the middle of it, he says, "The dude  
16 would disappear on me, and -- and that's -- and that's  
17 the problem. So then the dude did not make an effort."  
18 What does that mean?

19 A. Like I said, he was -- he was not -- he was not  
20 willing to follow the gang, what they were asking him to  
21 do. He just wasn't putting the effort that they expect  
22 for Lil Guasón to -- to have -- to have on their -- on  
23 their brains, thinking that he want to be a full gang  
24 member of MS-13.

25 Q. Let's turn now to Government's Exhibit 11-A-1.

1           On the cover page, what does it say the date of  
2 this call is?

3           A.    It's March 31, 2014.

4           Q.    And it says 10:08 p.m. Do you understand that?

5           A.    Yes.

6           Q.    Was this call before or after the call we just  
7 looked at on the same day?

8           A.    This call was after.

9           Q.    Who are you talking to during this call?

10          A.    It's Lil Poison from PVLS, and Lil Tuner or  
11 Pesadilla from PVLS.

12          Q.    So, the same people you were talking to in the  
13 call earlier that day?

14          A.    Yes.

15          Q.    Why did you talk to them twice in the same day?

16          A.    Because, I was -- when I learned that they have  
17 kill Lil Guasón, I was calling and just to try to find  
18 out more stuff, at least have an idea to give all the  
19 information to my handler, where we can start.

20          Q.    Please turn to page eight. I'm just going to ask  
21 you about the last two lines on page eight. Would you  
22 please review those.

23          A.    Okay.

24          Q.    Who is CHS on this page?

25          A.    That's me.

1 Q. Who is DC?

2 A. That's Lil Poison.

3 Q. Lil Poison, at the bottom of the page, asks you,  
4 "Did you see how I looked like on Sunday when I got to  
5 the area?" What do you understand him to be meaning --  
6 to be talking about?

7 A. He was kind of like bragging in some way, that,  
8 you know, that he did something. He was tired for the  
9 night -- the night before.

10 Q. Had you seen them on Sunday?

11 A. Yes.

12 Q. Where?

13 A. In the general meeting.

14 Q. Who else was at that general meeting?

15 A. Um --

16 Q. If you recall.

17 A. It was Lil -- I know for sure it was Lil Poison.  
18 I cannot recall who else, if anybody else was.

19 Q. When he says "the area," "when I got to the  
20 area," what does "the area" mean?

21 A. Can you repeat that question?

22 Q. Sure. That same sentence, "Did you see how I  
23 looked on -- how I looked like on Sunday when I got to  
24 the area?"

25 A. Oh, that means when we get -- when he got to

1 the -- to the hotel where we're going to have the  
2 general meeting.

3 Q. Where was that general meeting?

4 A. It was in Lorton.

5 Q. You respond, "Uh-huh, and, and all sleepless,  
6 man." What do you recall about the way that Lil Poison  
7 looked at that general meeting?

8 A. He was tired. You can tell that -- that he -- he  
9 has not have any sleep that much.

10 Q. Please continue to the next page, page nine.  
11 Please review that page and look up when you're done.

12 A. Okay.

13 Q. A second thing that Lil Poison says on that page  
14 is, "I went to do something crazy." What do you  
15 understand that to mean?

16 A. That they went to kill someone.

17 Q. You ask him, "You did go get fucked up, man?"  
18 What did you mean?

19 A. If they went to get drunk.

20 Q. Why did you ask if they went to get drunk?

21 A. Because I knew they were not allowed to get  
22 drunk. So I knew he was going to say something else.

23 Q. What did he say?

24 A. He said, pretty much. They don't get drunk.  
25 They kill. They like to kill.

1 Q. You understand Lil Poison to mean, when he says,  
2 "We only like to kill"?

3 A. That's the only -- only thing in his head, kill.  
4 That's what the MS all about, like killing people for no  
5 reason.

6 Q. Then, Lil Poison says, "The thing is, well,  
7 couldn't you almost see the beast on my back, man?"  
8 What is the beast?

9 A. The devil.

10 Q. What does he mean, "couldn't you almost see the  
11 beast on my back"?

12 A. They think, like I said, when they do something  
13 wrong, really bad, they think that the devil is right  
14 beside them and nobody can do anything to them.

15 Q. Towards the bottom of the page, the last thing  
16 you say, you ask him, "Did you guys come across some  
17 chicken, man?" What were you asking?

18 A. Because, that's -- that's what they use on  
19 Lagrima, when they killed Lagrima. They refer to  
20 Lagrima as a chicken. And then I refer to them -- I was  
21 not going to use the word "kill" or "murder," because  
22 they will say, "Why you saying that?" So I use the same  
23 code that they were using.

24 Q. Why is the code "chicken"?

25 A. Because, that -- that's what they use, a chicken



1 is -- that is a disrespectful way for a person that they  
2 have killed.

3 Q. Lil Poison responds, "Yes, we came across a  
4 chicken." And then he continues and says, "The ones  
5 that are useless to the hood, then to the trash if  
6 you're useless, man." What do you understand that to  
7 mean?

8 A. That if you're not willing to show them that you  
9 are hundred percent with them, or do what they ask you  
10 to do, they're going to kill you. They're going to get  
11 rid of you.

12 Q. What is "useless to the hood"?

13 A. Like, not willing to go and kill any -- someone,  
14 maybe not following the rules, maybe going out with  
15 girls or instead of stay with the clique. It's a lot of  
16 rules that can -- that will affect them.

17 Q. When he says, "then to the trash if you're  
18 useless." What do you understand "trash" to mean?

19 A. That they're going to kill you. That's -- they  
20 don't see you like nothing else but trash, like they're  
21 going to kill you and put you in the trash, and that's  
22 it.

23 Q. Please continue to page ten and review that page,  
24 and look up when you're done, please.

25 A. Okay.

1 Q. The top of the page, you and -- and Lil Poison  
2 talk over each other, but talk about the other chicken,  
3 the crying chicken. Who are you talking about?

4 A. I'm talking about Lagrima.

5 Q. And when you say, "He's now ended up like the  
6 crying chicken," what do you mean?

7 A. They kill him like Lagrima.

8 Q. Lil Poison responds, "Uh-huh. That's why I got  
9 there. You see, you could see the beast on me." What  
10 does that mean?

11 A. The devil. He referring to, you know, the devil.  
12 The devil -- he think the devil was with him.

13 Q. He then says, "The beast is afoot with me now."  
14 What was his tone of voice when he said that?

15 A. He -- he just believing what he saying, like he  
16 think the devil was with him.

17 Q. Right after he says, "the beast is afoot with  
18 me," you both mention someone named Uzi --

19 A. Yes.

20 Q. -- U-z-i. Who is Uzi?

21 A. Uzi was a *chequeo* from Silvas.

22 Q. Why are you talking about a *chequeo* here?

23 A. Because, at this point I already know that they  
24 have killed Lil Guasón, and they was kind of a little  
25 pleasure on the side of Silvas clique, or to do -- to

1 make this guy a homeboy. He was looking for any  
2 opportunity to kill someone. So -- but I already knew  
3 that they kill Lil Guasón, so there was nobody else that  
4 they can come up and say, "Hey, we have something for  
5 Uzi," until I learn that -- I learn that Lil -- Lil  
6 Poison was preparing something for Uzi.

7 Q. Continuing past the Uzi conversation, the last  
8 long response from Lil Poison on that page, he says,  
9 "That's why, man. No, I'm preparing him one. Yeah,  
10 man, you know, that -- that he prove to us who he really  
11 is like that, you understand, the way that our recruit  
12 proved it to us."

13 What do you understand him to mean when he says,  
14 "the way that our recruit proved it to us"?

15 A. The -- the recruit that they have -- have -- have  
16 part of the killing Lil Guasón in order to become a  
17 homeboy.

18 Q. What recruit?

19 A. Solitario.

20 Q. When it says "proved it to us," what does that  
21 mean?

22 A. Means that -- that he kill -- he kill -- he was  
23 part of killing Lil Guasón. He show that he was willing  
24 to kill for them.

25 Q. At the end of the page, Lil Poison says, "That

1     dude, Solitario, you know, the second recruit that we  
2     had." Who do you understand to be the first recruit?

3         A. The first -- the first recruit was Lil Guasón.

4         Q. And when you say, "So, but, now, he's -- he's  
5     ready for it, now," what were you asking?

6         A. I'm asking if he's -- he's ready, they think that  
7     he kill -- he was part of killing Lil -- Lil Guasón,  
8     that he was ready to become a homeboy.

9         Q. Who?

10        A. Solitario.

11        Q. Please turn to page 11. How does Lil Poison  
12     answer your question?

13        A. Said he was ready.

14        Q. What does he mean when he says, "For June, you  
15     know, the 13th"?

16        A. It's the Friday the 13th.

17        Q. What was special about -- what is he talking  
18     about, about Friday the 13th here?

19        A. The 13th is a date for the devil.

20        Q. And what was going to happen, according to Lil  
21     Poison, on Friday the 13th?

22        A. He -- Solitario was going to get the 13 seconds  
23     jumped in to the gang.

24        Q. Lil Poison then responds with that paragraph  
25     response there. Would you please read that, and then I

1 have a question.

2 A. Okay.

3 Q. At the end of that response, Lil Poison says,  
4 "Since we watched the videos of La Mara, you know, the  
5 way that they leave the rivals, that's the way that we  
6 leave them." What do you understand that to mean?

7 A. They -- they want to do the same thing they do in  
8 El Salvador. They kill people in the most crazy way  
9 that they can think of. And that's what they -- they  
10 want to do the same thing, do the -- want to do the same  
11 thing to -- for anybody they think they need to kill,  
12 Show the same thing that they do in El Salvador.

13 Q. What videos is he talking about?

14 A. There is a videos on YouTube about gangs talking,  
15 showing videos of people have -- they have dismembered  
16 another person, kill him, cutting his head off, doing  
17 the crazy, like I say, the craziest thing that you can  
18 imagine.

19 Q. Do gang members watch these videos?

20 A. Yes.

21 Q. Do recruits watch these videos?

22 A. Yes. Anyone want to be a part of MS-13.

23 Q. Please continue -- actually, we'll go now to  
24 Government's Exhibit 12-A-1.

25 All right. Now this call here says it's with

1      Leopardo. Do you see that?

2            A. Yes.

3            Q. Is that the same Leopardo you identified in  
4 court?

5            A. Yes.

6            Q. What is the date of this call, according to the  
7 cover page?

8            A. It's June 8, 2014 -- I mean, I'm sorry, May 8,  
9 2014.

10           Q. Would you take a look, please, at Government's  
11 Exhibit 70-A?

12           MS. MARTINEZ: And, Your Honor, I believe  
13 it's in evidence. May we just publish it?

14           THE COURT: Yes.

15 BY MS. MARTINEZ;

16           Q. Do you know who this is?

17           A. Yes.

18           Q. Who is it?

19           A. That's Leopardo from PVLS, or Gatito from PVLS.

20           Q. Let's go back to Government's Exhibit 12-A-1. We  
21 will start with page 23.

22           Please review the first half of this page, down  
23 to where you ask about the girlfriend, and then I'll ask  
24 you questions.

25           A. Can you repeat that?

1 Q. If you could start at the top of the page and  
2 review, until you start talking -- you and Leopardo  
3 start talking about the girlfriend.

4 Oh, I'm sorry. They start that kind of early. I  
5 see why you're confused.

6 If you can continue -- read at the top of the  
7 page and continue down to where you ask the solo  
8 question, "Your girlfriend?" And he responds, "Fuck,  
9 man." Please just read to there.

10 A. Okay.

11 Q. Beginning at the top of the page -- first of all,  
12 who is CL?

13 A. That's Leopardo.

14 Q. All right. And, later on this page, there's JR.  
15 Who is JR?

16 A. That's me.

17 Q. There's another speaker on this page, initials,  
18 RR. Who is that?

19 And if need be, we can go back to the cover page.

20 A. That would be -- we can go back to the page, but  
21 I believe it would be Stone from Silvas.

22 Q. Stone?

23 Let's go to the cover page, just to be sure. Who  
24 does the cover page say RR is?

25 A. Stone.

1 Q. Who is Stone?

2 A. He was a member from Silvas, a gang member from  
3 Silvas.

4 Q. All right. Going back to page 23.

5 On this first half of page 23, what topic of --  
6 what's the topic of conversation that you're having with  
7 Leopardo and Stone?

8 A. We having the conversation about a recruit, if  
9 you not following the rules of the gang or the clique,  
10 you're going to be in trouble.

11 Q. The first thing Leopardo says is, "Since we're  
12 homeboys, we have all the right to, you know, right, to  
13 be watching the steps of the recruit, the steps that  
14 they take." What does he mean?

15 A. They need to -- they need to show them, talk to  
16 them, what they should do or what they can do in order  
17 for them not to be in trouble with the clique.

18 Q. Leopardo continues in the next response, "So then  
19 the dude was doing his little things, that right,  
20 serious shit, you know, right, from stealing from the  
21 clique, you know, stealing from the homeboy's  
22 girlfriend, fucking the homeboy's girlfriend." Who is  
23 he talking about?

24 A. He's talking about Lil Guasón.

25 Q. What does he mean, "stealing from the homeboy's



1 girlfriend"?

2 A. He -- he was sleeping with a homeboy's girlfriend  
3 and stealing money from the clique.

4 Q. Is it permitted for a *chequeo* or a recruit to  
5 sleep with a homeboy's girlfriend?

6 A. No.

7 Q. What are the possible consequences?

8 A. They're going to kill him.

9 Q. Please continue to page 24. Please review the  
10 first half of this page, through the line where you say,  
11 "Oh, the sister, son of a bitch, right?"

12 And Leopardo responds, "Yes, man."

13 A. Okay.

14 Q. The second thing that Leopardo says on that page  
15 is, "No, man. That son of a bitch is a big fucker. He  
16 even fucked the girlfriend. He even fucked Solitario's  
17 sister. Can you believe it?

18 Who do you understand he's talking about having  
19 sex with Solitario's sister?

20 A. Lil -- Lil Guasón.

21 Q. Solitario -- what was Solitario's status in the  
22 gang at the time?

23 A. At the time he was a recruit.

24 Q. Is there a problem with a recruit, like Lil  
25 Guasón, sleeping with the sister of another recruit?

1       A.    Yes -- with another recruit? I don't think it  
2 would be a problem, unless they -- they -- they don't  
3 have permission or they hiding.

4       Q.    You asked, "Solitario's woman, too?"  
5             And Leopardo says, "No, man, the sister."  
6             What was that exchange about?

7       A.    I was just trying to find out who he -- he's  
8 talking about, Lil Guasón had been sleeping with.

9       Q.    Leopardo also says, right above that, "Only a  
10 homeboy can be with my sister with my permission. Other  
11 than that, no, the son of a bitch can't be with my  
12 sister." What do you understand that to mean?

13       A.    That means that Lil Guasón, he can't have a  
14 permission if the homeboy doesn't want him around his  
15 sister.

16       Q.    Did you understand whether or not Lil Guasón had  
17 permission?

18       A.    No, he didn't have permission.

19       Q.    Please continue to page 25. Please review this  
20 page, and look up when you're done.

21       A.    Okay.

22       Q.    In that first long response from Leopardo at the  
23 top of the page, towards the middle, Leopardo says, "We  
24 talked, you know, like indirectly, you know, but  
25 everything for him, like, you know what would happen if

1 you fuck a homeboy's girlfriend. You know what would  
2 happen to you."

3 What do you understand him to mean there?

4 A. That they always -- they always were telling him  
5 indirectly what can happen if you, let's say, have done  
6 something that is prohibited in the gang. I will say,  
7 sleeping with somebody else girlfriend, that will --  
8 that will get you -- that will get you killed.

9 Q. Who were they telling that it could get you  
10 killed to --

11 A. Lil Guasón.

12 Q. -- sleep with someone's girlfriend?

13 I'm sorry, I interrupted you. What was your  
14 answer?

15 A. Lil Guasón, always telling him about what can get  
16 you killed to Lil Guasón.

17 Q. You respond to him, and halfway through that  
18 response, you say -- or towards the end of the response  
19 you say, "The son of a bitch should have realized, then,  
20 no, man, I will never get out of this one." What do you  
21 mean?

22 A. I mean, he -- he should have know all the -- all  
23 what they guys repeating, they talk to him and let him  
24 know, pretty much saying the same -- I will say, giving  
25 him the rules, but at the same time, telling him that's

1 going to happen to you. He should have picked up and  
2 say, something's going to happen to me.

3 Q. Leopardo responds, "No man, the dude already  
4 knew. The dude already knew that -- that we were going  
5 to hit him." What do you understand that to mean?

6 A. They think that Lil Guasón knew that he was going  
7 to get killed.

8 Q. He also says, "The dude also knew that we were  
9 going to roll him" up. What did he mean by "roll him  
10 up"?

11 A. By kill him.

12 Q. He then continues, "With so many hints we dropped  
13 on him and all that shit, the dude already -- already  
14 knew, you know. It's just that we played it super  
15 good." What do you understand that to mean?

16 A. They think that they -- they did a perfect  
17 murder. He didn't -- Lil -- Lil Guasón didn't thought  
18 that he was going to get killed that day. They think  
19 that everything was perfect in order to kill him, Lil  
20 Guasón.

21 Q. He continues and says, "We did it at 12 midnight,  
22 you know, the hour of the beast." What is the  
23 significance of committing the murder at 12 midnight?

24 A. They think that 12 is the hour of the devil, just  
25 to worship the devil.

1 Q. What would be the significance of killing someone  
2 at the hour of the devil?

3 A. They will -- they will pretty much worship the  
4 devil, that's the hour of the devil, by taking the life  
5 of someone.

6 Q. At the bottom of the page, in that last section  
7 from Leopardo, he says, in the middle, "No, man, and I  
8 turned to take a look, like down the way, you know, like  
9 a little embankment, and the son of a bitch was right  
10 there. He was staring at me." What do you understand  
11 him to be talking about there?

12 A. Lil Guasón, after they kill him. He told me that  
13 he saw Lil Guasón, and part of where they kill him. He  
14 describe it to me, that he was just there, staring at  
15 him, after they kill him. He pretty much appeared to  
16 him.

17 Q. As in the dead body or something else?

18 A. He described he appear as a ghost.

19 Q. As a ghost?

20 A. Yes.

21 Q. He then says, "And since -- since I ripped his  
22 onion off, you know, may he left holding a grudge on  
23 me." What do you understand that to mean.

24 A. Because he was the one who cut his head off, Lil  
25 Guasón, Lil Guasón feel like, you know, he was the --

1 the one who took his head off, that's why he appeared to  
2 him.

3 Q. And that response twice in brackets that says,  
4 "laughs," what was his tone of voice when he was talking  
5 about that?

6 A. He was just crazy, like he was just happy.

7 Q. Please continue to page 26. I'm just going to  
8 ask you about that first thing that Leopardo says on the  
9 page.

10 A. Okay.

11 Q. What's he talking about?

12 A. He just saying how crazy, that he can get the  
13 head of someone, and he's just happy about it.

14 Q. He says, "Like that, you know, high up, 'here,  
15 look, the skull,' I would tell them." What's he talking  
16 about?

17 A. He was talking about the head of Lil Guasón,  
18 showing to his homeboys.

19 Q. Please go now to page 31. Right after that black  
20 box towards the middle of the page, Leopardo says, "That  
21 little hen," what do you understand that "little hen" to  
22 mean?

23 A. "Little hen" means Lil Guasón.

24 Q. Why did he call Lil Guasón a little hen?

25 A. Because the -- Lagrima was kind of a big guy, so

1 they call him chicken, the hen. And Lil Guasón wasn't  
2 that big as Lagrima, so they called him the little hen.

3 Q. Now, you used in that response both "chicken" and  
4 "hen." Why did you use both of those words?

5 A. Because, it's a disrespectful way for them to say  
6 to someone that they kill.

7 Q. What is the word in Spanish that's being used  
8 there for --

9 A. Um --

10 Q. -- for "chicken" or for "hen"?

11 A. It's *gallina*.

12 Q. Can you spell that for the court reporter?

13 A. G-a-l-l-i-n-a.

14 Q. And why did they use the feminine version,  
15 *gallina*, instead of *gallino*?

16 A. Because for them, it's -- they're -- they're like  
17 girls, like they don't care. They don't think that they  
18 were men enough to be in a gang, so they think that  
19 they're -- they're girly, kind of girly.

20 Q. Later down on the page, the very last thing that  
21 Leopardo says, he says, "And the little hen, I did enjoy  
22 cutting him up, you know." What's he talking about?

23 A. Lil Guasón, cutting Lil Guasón head off.

24 Q. Literally or figuratively?

25 A. Both.

1 Q. Please continue to page 32. Please read page 32  
2 and look up when you're done.

3 A. Okay.

4 Q. And the first line on the page, Leopardo says,  
5 "When we got her by the legs." Who are they talked --  
6 who is he talking about?

7 A. He's talking about Lil Guasón.

8 Q. Why does he use the feminine word "her" for Lil  
9 Guasón?

10 A. Like I mention before, they think that they were  
11 not men enough to be in a gang, so they refer as a girl,  
12 like in a respectful way.

13 Q. In a respectful or disrespectful?

14 A. Disrespectful way.

15 Q. He continues and says, "We took out all the  
16 joints, the bones, you know, from the legs, from that --  
17 from the knees." What do you understand him to be  
18 talking about?

19 A. He -- that they were doing crazy things to Lil  
20 Guasón.

21 Q. To what part --

22 A. I mean -- I'm sorry. To Lil Guasón, yes.

23 Q. To what part of Lil Guasón?

24 A. His knees, pretty much his legs.

25 Q. He continues and says, "I grabbed that son of a



1 bitch and put his legs right there on the belly and I  
2 pulled them back, you know. It went crack." What -- is  
3 he literally talking about putting knees on the belly --

4 A. Yes.

5 Q. -- and cracking bone?

6 A. Yes.

7 Q. You ask him, "Didn't he fit in the hole, man? He  
8 didn't fit in the hole?" Why do you ask him that?

9 A. Because that's the only reason I can think of,  
10 why he was doing some stuff like that.

11 Q. How did he respond?

12 A. He says the -- the hole wasn't -- wasn't that  
13 big, and his leg were -- were sticking out. Something  
14 like that, he mentioned.

15 Q. Leopardo says, "He did fit well, but the legs  
16 were the ones that fucked it up." What does that mean?

17 A. That probably the legs were sticking out.

18 Q. Continuing to the last paragraph there, by  
19 Leopardo, in the middle, he says, "I got there at like  
20 six in the morning, five. I felt like going there to  
21 check." Where is he talking about?

22 A. Where Lil -- Lil Guasón was buried.

23 Q. Why was he going to check where Lil Guasón was  
24 buried?

25 A. That he mentioned that he was going to check just

1 to make sure nobody have found him, or anything was  
2 un-normal.

3 Q. He continues and says, "If the deer had dug or  
4 something has caved in." What's he talking about?

5 A. He talk about Lil Guasón, where Lil Guasón was  
6 buried.

7 Q. He continues, "If something caved in there, I  
8 will bury -- I will grab dirt with my teeth and throw it  
9 on that son of a bitch." What did you understand him to  
10 mean there?

11 A. That it don't matter what had to do, if he sees  
12 the -- someone is -- or isn't covering the hole, he will  
13 throw dirt to Lil Guasón.

14 Q. Why does he say, "grab dirt with my teeth"?

15 A. Like, he -- he saying the way that, the worst  
16 case scenario, let's say, not his hands, he will do with  
17 his mouth, if he can.

18 Q. For what purpose?

19 A. Just to cover it up.

20 Q. Please continue to page 33. Please review that  
21 page and look up when you're done.

22 A. Okay.

23 Q. The top of the page, the first thing that  
24 Leopardo says, he says, "I made homeboy Solitario and  
25 the -- the Slow." What is he talking about?

1           A.    He's talking about homeboy Solitario, homeboy  
2   Slow, from his clique, PVLS.

3           Q.    Is this the same Solitario?

4           A.    Yes.

5           Q.    Why is Leopardo calling Solitario a homeboy on  
6   this day in May?

7           A.    Because he -- he already killed Lil -- Lil  
8   Guasón. He was part of killing Lil Guasón.

9           Q.    He continues and says, "We went to see him at  
10  12 midnight." Who went to see who?

11          A.    It was Leopardo, Slow, and Solitario went to see  
12  where -- where they kill and they bury Lil Guasón.

13          Q.    Why at 12 midnight?

14          A.    Because, they think 12 is the -- the hour of the  
15  devil.

16          Q.    Continuing to that very long response by  
17  Leopardo, in the middle, he says, "And the thing" --  
18  quote -- "'And the thing is, who's saying we're scared,'  
19  They would ask me."

20               Who is he talking about? Who said "who's saying  
21  we're scared"?

22          A.    He's talking about Solitario and Slow.

23          Q.    And what are Solitario and Slow saying to  
24  Leopardo?

25          A.    They were not scared.

1 Q. When?

2 A. When they went to see Lil Guasón.

3 Q. Continuing to the next thing that Leopardo says,  
4 after you say, "Why, man," he says, "Since we went at  
5 12 midnight, and since I always like to, you know, tell  
6 scary stories like that, you know." What's he talking  
7 about?

8 A. He's -- he's talking about going to Lil Guasón  
9 when they kill him, and he like to always talk about  
10 devil stuff and scary stuff, just to -- I mean, he's  
11 pretty much kind of crazy over the head about the devil  
12 stuff.

13 Q. Continuing at the bottom of the page, Leopardo  
14 says, "I'd go alone at 12 midnight, all alone. I would  
15 even go there to smoke a joint and cigarettes. I have  
16 been around there all alone at 12, the hour of the  
17 beast."

18 Where does he go by himself at 12 midnight?

19 A. Where Lil Guasón was killed.

20 Q. Please continue to page 34. Please read this  
21 page and look up when you're done.

22 A. Okay.

23 Q. The top of the page, Leopardo says, "The thing is  
24 to prove -- the thing is to prove yourself, you know,  
25 how far you are capable of going, you know." What is he

1 talking about?

2 A. He's talking about how he prove himself, how  
3 crazy you could be by being in the gang.

4 Q. What do you mean by "crazy"?

5 A. Crazy by killing, by doing the crazy stuff, that  
6 they think that they're okay.

7 Q. He continues in the next response, "That's why  
8 I -- I have taught that to the dogs, you know." Who are  
9 the dogs?

10 A. The homeboys.

11 Q. He says, "'Look, come -- come alone at 12  
12 midnight if you can. That way you will grow some  
13 balls'" -- in quotes -- "I tell them." What does that  
14 mean?

15 A. That means that, like I said, 12 midnight is the  
16 time of the devil, so, they think that if they do that,  
17 they will have -- they will do anything.

18 Q. Who is he telling this?

19 A. Lil Slow and Solitario, from PVLS.

20 THE COURT: Counsel, we'll take the morning  
21 break now for 15 minutes. Thank you.

22 (Court recessed at 11:31 a.m. and reconvened  
23 at 11:51 a.m.)

24 (Jury not present.)

25 MR. AMOLSCH: Your Honor, could we address

1 the Court again on the -- thank you.

2 Your Honor, I would just like to bring  
3 against -- up again the instruction that I proffered to  
4 the Court yesterday and e-mailed a copy of it to the  
5 government, regarding the instruction as it relates to  
6 Mr. Cerna and him taking the confidential human source  
7 Junior to the grave sites.

8 Again, I've taken the language right from  
9 your judge's order on the 404 -- on the government's  
10 motion in the -- the permissible admissibility on that  
11 issue, and tailored it to a standard 404(b) instruction.

12 I can articulate again my reasons for  
13 wishing that instruction, if the Court wishes, but I'd  
14 just like the Court to give the instruction as it is.

15 THE COURT: When would you propose I would  
16 give such an instruction?

17 MR. AMOLSCH: Well, again, Your Honor, when  
18 we talked about this yesterday, I -- the Court gave me  
19 an opportunity of either now or later. I asked for  
20 both.

21 But, we are getting to the point now -- I  
22 mean, I don't know if the government's proved so much,  
23 but we're getting to the point where I believe we're in  
24 Mr. Cerna's transcripts. There was the video evidence  
25 of him taking him to the graves. All of that, I

1 believe, is coming.

2 So, I believe now would be a good time, if  
3 the Court is so inclined, to give that instruction.

4 And then when we're done, however many weeks  
5 later, just, you know, remind the Court (sic) about the  
6 Court's earlier instruction.

7 But I believe now, if the Court's inclined  
8 to do it, I think now would be the time to do it.

9 THE COURT: Okay.

10 Let me hear from the government.

11 MS. MARTINEZ: Your Honor, the government  
12 doesn't feel strongly about when the instruction is  
13 given. I think it is certainly appropriate for an  
14 instruction of this sort to be given at the close of  
15 case.

16 I suppose I don't think it's necessary that  
17 it be given now, but we're not going to object to it  
18 giving it now if Your Honor would like to give it now,  
19 as well.

20 With respect to the actual text of the  
21 instruction that Mr. Amolsch has proposed, most of it we  
22 certainly don't object to, and I think most of is  
23 consistent with the standard 404(b) instruction.

24 However, in the second paragraph Mr. Amolsch  
25 has characterized the way in which the evidence may be

1 considered, and we would submit that he has overly  
2 limited the way that this evidence could be considered.  
3 The language that he includes is, "You may consider this  
4 evidence to help you decide whether Defendant Cerna was  
5 a gang member who knew about the gang's prior  
6 activities, or that he was tasked by the gang to rebury  
7 the body, or that the grave site is one used by the  
8 gang."

9 According to this instruction, that's the  
10 only thing the jury could consider when hearing that  
11 evidence. We think that's overly narrow, particularly  
12 characterizing the defendant as being tasked by the  
13 gang, as if it wasn't something he willfully chose to  
14 do, or that the grave site is one used by the gang.

15 We think that certainly it is appropriate to  
16 have a limiting instruction stating that evidence that  
17 he helped rebury the body should not be considered  
18 evidence that he committed the murder, because it's not  
19 evidence that he committed the murder, and we, of  
20 course, will not be introducing evidence that he  
21 committed the murder, per Your Honor's order.

22 But --

23 THE COURT: Your suggestion is to take that  
24 sentence out?

25 MS. MARTINEZ: I think that would be fine,



1 yes.

2 THE COURT: Okay. Is that it?

3 MS. MARTINEZ: I think that would make the  
4 instruction appropriate, Your Honor.

5 THE COURT: Okay.

6 Mr. Amolsch, is that acceptable?

7 MR. AMOLSCH: Your Honor, I -- the 404(b)  
8 instructions I looked at all gave examples. I took  
9 that -- that's verbatim from what your order -- Your  
10 Honor's -- from the order, so I tried to tailor it to  
11 what Your Honor has previously held.

12 If you wanted to include the words, "for  
13 example," to include the possible universe of things  
14 that could be included -- but I was doing my best to be  
15 consistent with Your Honor's reasoning, and I took it  
16 right from Your Honor's order on the --

17 THE COURT: But, I wasn't trying to give you  
18 a road map for your closing argument or to give the jury  
19 some instruction about what theory they can consider;  
20 only to limit it as it relates to uncharged murder.  
21 He's not to be considered for uncharged murder.

22 You can argue all those things if you would  
23 like, but I don't think I need to have the judge tell  
24 them what theories to consider it under.

25 MR. AMOLSCH: The only reason I included

1 that argument --

2 THE COURT: I understand why you did it.  
3 I'm just saying to you that --

4 MR. AMOLSCH: Okay.

5 THE COURT: -- because I'm putting in a  
6 ruling does not mean it should be in the instruction.

7 I'm suggesting to you that, if you want to  
8 argue those things, that's something that you should do  
9 as an advocate, but it's not something that I should do  
10 from the bench, I don't think.

11 MR. AMOLSCH: The 404(b) instructions I've  
12 seen all tend to give some examples about what is  
13 permissible. And I didn't find anything that was  
14 similar enough in this particular case in the standard  
15 404(b) instructions for -- to give the jury some  
16 guidance on the permissibility of why it could be  
17 considered.

18 So, I understand the Court's -- I'm not  
19 arguing with the Court. I understand where you're at.  
20 I believe --

21 THE COURT: You don't have to agree with me.  
22 You can keep your objection. That's fine.

23 MR. AMOLSCH: No, I understand, Judge. But  
24 in terms -- I understand what you're saying. So --

25 THE COURT: Okay.

1 MR. AMOLSCH: -- I think the Court should  
2 give the jury some guidance on what is permissible, as  
3 opposed to what -- leaving as to what's impermissible,  
4 if the Court is so inclined.

5 But thank you on the instruction.

6 THE COURT: Well, as I understand it, the  
7 government's theory -- let me pull up the indictment  
8 here. Hold on.

9 I believe it's Count 5, accessory after the  
10 fact, has to do with reburying the body of Nelson Omar  
11 Quintana Trujillo. It says, "the defendant, together  
12 with others known and unknown to the grand jury."

13 So, theoretically, Mr. Cerna could be a  
14 person who was known or unknown to the grand jury, but  
15 not charged.

16 MR. AMOLSCH: And not charged, correct.

17 I'm -- I'm cognizant about the Court's  
18 concern about holding up the jury. And we did do this  
19 late.

20 THE COURT: Okay.

21 MR. AMOLSCH: We can just take that last  
22 paragraph out, Judge. I mean, I note my objection,  
23 and --

24 THE COURT: Okay. I'll do that. I'll do  
25 that.

1 And what I'll do is, I'll mention that Count  
2 5 does refer to -- well, maybe I shouldn't do that.  
3 I'll just take that out.

4 You can bring our jury out. Thank you.

5 MR. AMOLSCH: Thank you, Your Honor.

6 (Jury present at 11:58 a.m.)

7 THE COURT: You may be seated.

8 Ladies and gentlemen, I'm going to give you  
9 some additional instructions, and I'll provide this to  
10 you in writing at the end of the trial as well.

11 In this case, the Defendant Lemus Cerna is  
12 charged in the indictment with murder in aid of  
13 racketeering in the death of Gerson Aguilar. He is not  
14 charged with any crime related to Nelson Trujillo.

15 In this case, you may hear evidence that the  
16 defendant, along with others, helped rebury the body of  
17 Nelson Trujillo.

18 The Court instructs that you may not  
19 consider Defendant Cerna's alleged participation in the  
20 reburial of Nelson Trujillo in any way in considering  
21 whether or not the government has proven to you beyond a  
22 reasonable doubt that the Defendant Cerna murdered  
23 Gerson Aguilar.

24 The defendant is not on trial for committing  
25 these other acts. You may not consider the evidence of

1 these other acts as a substitute for proof that the  
2 defendant committed the crime charged.

3 You may not consider this evidence as proof  
4 that the defendant has bad character or any propensity  
5 to commit crimes. Specifically, you may not use that to  
6 conclude that because he may have committed the other  
7 act, he committed the act charged in the indictment.

8 Remember, the defendant is on trial here  
9 only for the murder of Gerson Aguilar, not for these  
10 other acts.

11 Thank you.

12 Bring the witness back.

13 (Witness resumed stand.)

14 DIRECT EXAMINATION (Continued)

15 BY MS. MARTINEZ:

16 Q. When we left off before the break, we were on  
17 Government's Exhibit 12-A-1 on page 34. You had already  
18 reviewed this page, but I have a number of questions.  
19 Do you need to review it again or should we continue  
20 with the questions?

21 A. Review it again.

22 Q. You want to review it again. Okay. Go ahead and  
23 review the whole page.

24 A. Okay. I'm ready.

25 Q. Okay. We left off in that second response from

1      Leopardo, towards the top of the page, the long one. We  
2      had already talked about the dogs, but remind us, who  
3      are the dogs?

4      A.    The homeboys.

5      Q.    Now, at the end of that response, Leopardo says,  
6      in quotes, "'The beast will always care for you there,  
7      you know?'" What is he talking about?

8      A.    He's talking about the devil.

9      Q.    And who is he talking to?

10     A.    To Solitario and Lil Slow.

11     Q.    So, you ask in response, "And Solitario, man, and  
12     the -- and the -- and Slow, did they panic, man,  
13     thinking you were going to roll them up?" What are you  
14     asking?

15     A.    I was asking if they were scared, that they  
16     thought Leopardo -- he was going to kill one of them.

17     Q.    How did Leopardo respond to your question?

18     A.    He says, no. They thought -- they were just,  
19     thought they were going to pull their legs, Lil Guasón,  
20     and scare them.

21     Q.    What do you mean, Lil Guasón would pull their  
22     legs?

23     A.    They -- since he think that he saw a ghost of Lil  
24     Guasón, so they were scared.

25     Q.    Leopardo then says, "No, man, with me, they have

1 fun with me with anything." Who has fun with him?

2 A. The homeboys.

3 Q. And, what does "have fun with anything" mean?

4 A. Means that he's crazy, he don't care if he -- if  
5 he's killing or he just going to scare them, he just --  
6 he just like that.

7 Q. All right. In that same response, he continues  
8 about halfway through, "I would gladly go dig the hole  
9 myself, you know, right? And whoever is going to hit me  
10 can hit me, or I can kill myself, you know, because I  
11 will not run from the Mara."

12 What does that mean?

13 A. He -- that means that for him, Mara means  
14 everything. If he -- he never going to run from the  
15 Mara. If he has -- if he ever did something, the gang  
16 think that he needs to die, he will dig his hole himself  
17 for anybody to kill him.

18 Q. He adds, after that, "Because I know what I got  
19 myself into, you know?" What did he get himself into?

20 A. Into the gang. It's only one way out and no way  
21 out.

22 Q. What's the way in?

23 A. They going to jump you in for 13 seconds, which,  
24 beat you, they're going to beating you for 13 seconds.

25 Q. What's the way out?

1 A. Death.

2 Q. He then continues, "I will not leave or get out  
3 until death, you know, right? And everyone knows what  
4 they got themselves into, you know?" What does he mean  
5 by, "and everyone knows what they got themselves into"?

6 A. Every -- everyone knows when they join the gang,  
7 there's one way in, no way out -- and the only way out  
8 is by death.

9 Q. Is this something that's taught only to homeboys  
10 or to recruits as well?

11 A. To homeboys, to recruits, to anybody who wants to  
12 join the gang.

13 Q. What are the consequences for someone who tries  
14 to leave the gang?

15 A. They will kill you.

16 Q. I'll turn your attention now to Government's  
17 Exhibit 14-A-1.

18 Looking at the cover page here, what is the date?

19 A. It's May 9, 2014.

20 Q. Who are you talking to in this conversation?

21 A. I'm talking to Leopardo from PVLS, or Gatito.

22 Q. Why are you talking to Leopardo again so soon  
23 after the last call?

24 A. Um, we always talk, because, he -- sometimes he  
25 was worrying, and I was -- saw an opportunity to find



1 out more about the murder of Lil Guasón.

2 Q. Why were you trying to find out more about the  
3 murder of Lil Guasón?

4 A. To locate the bodies and give information to my  
5 handler.

6 Q. Why did you want to locate the bodies?

7 A. Because, you know, I felt -- I felt bad, I mean,  
8 on both of them, that Lil Guasón has no family at all.  
9 That's what they told me. And, I just didn't feel  
10 right. He was -- we had to do something. And, I  
11 know -- I mean, the FBI could have do so much, so I had  
12 the opportunity to probably facilitate the easy way to  
13 find the bodies.

14 Q. Do you know if Lagrima had family?

15 A. Yes.

16 Q. Did he?

17 A. Yes, a sister.

18 Q. Let's turn to page six. Please review the second  
19 half of this page, starting with where you say, "And how  
20 is it that -- how is it that what's -- what's that park  
21 like?" Please review from there to the bottom of the  
22 page.

23 A. Okay.

24 Q. That first line, when you're talking about the  
25 park, what are you talking about? What park?

1           A. I was just trying to figure out the park that  
2 they kill Lagrima and Lil Guasón.

3           Q. Why were you trying to find the park that  
4 killed -- where they killed Lagrima and Lil Guasón?

5           A. To locate the bodies and give the information to  
6 my handler.

7           Q. Leopardo says, "There's a little street, man.  
8 It's just like a small cemented street, and then goes  
9 through the -- through a river." What did you  
10 understand that to mean?

11          A. It's just as he described it. It was a river and  
12 it was a -- like a path, I would -- I would think of --  
13 well, I didn't know -- I was never there, so, I didn't  
14 know what kind of park it was, but I knew it was a park.

15          Q. He adds, "It's for running or riding a bicycle,  
16 you know." What is he talking about?

17          A. He's talking about that people run, they use a  
18 bicycle sometimes, like a regular park.

19          Q. Had you been to this park by the time of this  
20 conversation?

21          A. No.

22          Q. Did you ever go to the park?

23          A. Yes.

24          Q. Did his description match?

25          A. Yes.

1 Q. At the very bottom of the page, you ask,  
2 "So, a hole can be made there quickly and can be  
3 covered, man?" Why are you asking that?

4 A. I was asking those questions to try to figure out  
5 where -- at least have an idea if the bodies were there,  
6 they were close by, or where were the bodies.

7 Q. Please continue to page seven. Please review the  
8 first half of that page.

9 A. Okay.

10 Q. At the top, you say, "Later we'll go by there,  
11 dude." Where were you asking to go?

12 A. To the park where they killed Lagrima and Lil  
13 Guasón.

14 Q. Why were you asking Leopardo to go there?

15 A. Um, I always try to get a conversation, because,  
16 I knew if I had an opportunity at some point, I will --  
17 I will take a chance and go and see the park and try to  
18 find the bodies.

19 Q. Why do you say "take the chance"?

20 A. Because, you don't know if you going to go and  
21 you're going to come back.

22 Q. What do you mean?

23 A. By, you can go with them and they kill you.

24 Q. At this point, what was your best strategy for  
25 finding these bodies?

1       A.    Just to talk more often with them -- with him  
2   and, you know, like I say, agree with him, even though  
3   he's talking crazy things. So, and just to wait the  
4   opportunity to go to the park.

5       Q.    Why were you pursuing that opportunity, even  
6   though you felt like you were risking your life?

7       A.    Because, it didn't feel right, and -- and I know,  
8   like I said, FBI can do so much, but it's not like they  
9   going to go and find -- find them right away. And it  
10   will be easy, at least, to have an idea where the bodies  
11   were so they can get them.

12       Q.    About halfway down this page, a little less than  
13   halfway, Leopardo says, "You see houses. You can see  
14   houses, you know, because it's close by -- by the homes  
15   and all that shit." What is he describing?

16       A.    He's describing what is around the park. There's  
17   some houses and -- and -- houses -- he just mentioned  
18   houses. That -- I was -- that's when I was trying to  
19   locate what is close by, to have a better idea.

20       Q.    Now, you said eventually you did go to the park;  
21   is that right?

22       A.    Yes.

23       Q.    Were there houses close by?

24       A.    Yes, they were.

25       Q.    Who did you go to the park with?

1           A.    Leopardo from PVLS.

2           Q.    Please turn to page eight. Please review this  
3 page and look up when you're done.

4           A.    Okay.

5           Q.    The first long response by Leopardo, he says,  
6 "The thing is that it's like a small incline. It takes  
7 some effort to climb up that incline." Is he talking  
8 about the park still here?

9           A.    Yes.

10          Q.    Do you know what incline -- do you now know what  
11 incline he's talking about?

12          A.    Yes. It's where -- where we first went to the  
13 first body of Lil Guasón, it's kind of uphill. You had  
14 to kind of pretty much incline all the way up to  
15 get to -- actually, to get to both bodies.

16          Q.    When you went to the bodies, did it take you some  
17 effort to climb up the incline?

18          A.    Yes.

19          Q.    In the middle of the page you ask, "The homies  
20 weren't -- weren't there with you when you hit little  
21 hen? The homies weren't there?" What are you asking?

22          A.    I'm asking if Lil Slow and Solitario wasn't there  
23 when they -- when they kill Lil Guasón, because he -- he  
24 was telling me they were scared to go to the park.

25          Q.    So, why were you asking that question here?

1           A.    Because since they went to the park already and  
2           kill Lil Guasón, why would they go back and be scared,  
3           like something is going to happen to them.

4           Q.    What were you trying to figure out?

5           A.    The same, location of the bodies, and make sure  
6           who else was -- was involved in the Lil Guasón murder.

7           Q.    Why were you trying to figure out who else, other  
8           than Leopardo, was involved in the murder?

9           A.    To give -- to give information to my handler.

10          Q.    For what purpose?

11          A.    For them to actually, you know, find out the  
12          bodies and find out who else was involved, and  
13          everybody, you know, need to -- need to know who were --  
14          who was the persons involved in Lil Guasón murder.

15          Q.    At the bottom of the page, Leopardo, in that long  
16          response says, "Well, Slow, you know, the homeboy has  
17          the balls to kill and all that shit. But then, you  
18          know, to go, like to go and take out a dead person that  
19          already" -- what is he talking about?

20          A.    He's talking about Lil Slow. He -- he pretty  
21          much -- he can kill. He don't mind killing. But, when  
22          it comes to try to go to the bodies or do anything to  
23          a -- to a body or unbury the body, he kind of -- he's  
24          not -- he's not for that.

25          Q.    What did you understand him to mean when he said,

1 "to go and take out a dead person"?

2 A. Unbury Lil -- Lil Guasón, get him out, probably  
3 bury him back again.

4 Q. Please turn to page nine. Please review the  
5 first half of this page.

6 A. Okay.

7 Q. The top of the page, you say, "Peluca took out  
8 Lagrima." First of all, who is Peluca?

9 A. He's a PVLS member, MS-13.

10 Q. What's his other name?

11 A. Greñas, Peluquín.

12 Q. Is that the Greñas that you identified here in  
13 court?

14 A. Yes.

15 Q. Why did you bring up -- well, what is "took out  
16 Lagrima"? What does that mean?

17 A. He took out the body of Lagrima.

18 Q. Why do you say that Peluca did that?

19 A. Because, he told me that he did that.

20 Q. Why did you bring up the reburial of Lagrima to  
21 Leopardo here?

22 A. To pretty much reconfirm what -- what happened to  
23 Lagrima, and who was involved.

24 Q. Leopardo responds, "What? I took him out,  
25 homeboy, with Tuner, and that chick, Eva."

1 Who is Tuner?

2 A. He's Lil Pesadilla from PVLS.

3 Q. Is that the Lil Pesadilla you identified in  
4 court?

5 A. Yes.

6 Q. Who is "that chick, Eva"?

7 A. That was another PVLS member. I never met him.

8 Q. Do you know what -- was his name Eva?

9 A. He was Lil Evil, but they referred to Eva,  
10 like -- like a female way, because he -- he didn't want  
11 to, I guess, he just left -- he wasn't part of the gang  
12 at that point. He moved somewhere else.

13 Q. Was he involved in either of the murders?

14 A. Yes.

15 Q. Which one, or ones?

16 A. Lagrima's murder.

17 Q. In the middle of the page, Leopardo says, "You  
18 can't imagine how, homeboy, ha, the son of a bitch, felt  
19 like the smell was already in my brain."

20 What smell is he talking about?

21 A. The smell of the -- of Lagrima's body.

22 Q. Please turn to page 11.

23 I'm going to ask you just about one piece there,  
24 the second -- well, where Leopardo says, towards the end  
25 of the page, "No man, homeboy," there's black, "the



1 little hen." Do you see that?

2 A. Yes.

3 Q. Who is the little hen?

4 A. The hen or the little hen?

5 Q. Here it says "the little hen." Who is the little  
6 hen?

7 A. The little hen is Lil Guasón.

8 Q. He continues and says, "The little hen didn't say  
9 anything, only said" -- wait -- sorry. It seems to have  
10 gone off the screen. I'll wait for it to come back.  
11 Okay.

12 Do you recall what Leopardo said about what Lil  
13 Guasón said when they were killing him?

14 A. Um, he didn't say anything. He just say the,  
15 "not in the face."

16 Q. What does that mean, "not in the face"?

17 A. Because, when they -- you have any punishment, or  
18 they beat you for 13 seconds, some cliques -- I mean,  
19 most of the cliques, they not allow to touch your face.

20 Q. And you said, "He didn't say anything, just not  
21 in the face?" What do you mean by that?

22 A. He -- he just -- he didn't say anything. The  
23 only word he says, "not in the face," when they -- they  
24 were killing -- I mean, when he thought that he was  
25 getting a beat.

1 Q. I'd like to go back now to Government's  
2 Exhibit 12-A-1 and ask -- that we just looked at  
3 before -- and ask you a couple questions about some  
4 later pages in that transcript. So, if we could go to  
5 page 64 in 12-A-1.

6 Please review the text that appears on that page.

7 A. Okay.

8 Q. There's a reference on this page, Leopardo  
9 references a 32. Do you understand what he means by a  
10 32?

11 A. Yes. A --

12 Q. What --

13 A. -- gun.

14 Q. I'm sorry?

15 A. A gun.

16 Q. What kind of gun?

17 A. A 32 gun.

18 Q. You also use the term, you say, "Does the homie  
19 have a piece?" What did you mean by "piece"?

20 A. I mean -- I mean a gun.

21 Q. Please turn the page to page 65, and review the  
22 first half of the page.

23 A. Okay.

24 Q. You and Leopardo repeatedly used the term "the  
25 32." Are you still talking about a 32-caliber firearm?

1 A. Yes.

2 Q. Please turn the page to 66. Please review this  
3 page and look up when you're done.

4 A. Okay.

5 Q. The first -- about a quarter of a way down the  
6 page, you say, "The homie has that 32, man?"

7 And Leopardo responds, "Supposedly that's what  
8 the homeboys think."

9 Generally speaking, why did gang members want to  
10 know who has a particular firearm?

11 A. They -- they just want to know who -- who has a  
12 gun. That's pretty much, find out who -- who has a gun  
13 on the clique.

14 Q. And why would they want to know who in the clique  
15 has a gun?

16 A. In case they ever need it.

17 Q. Continuing down the page, to about the last  
18 quarter, you say, "But, the 32, the 32 is not dirty,  
19 man?"

20 And Leopardo says, "Yeah, the 32 is dirty."

21 What does it mean for a firearm to be dirty, for  
22 the gang?

23 A. That means that they have used it, they have used  
24 it to kill someone or to -- use it for shooting anything  
25 else. Probably they did not kill anybody, but they

1 just, for use.

2 Q. At the end of the page, Leopardo says, "We also  
3 got it dirty because of the thing we did, you know, the  
4 punishment that took place over there at the sector,  
5 that, that we blasted him. Poison did the --"

6 Do you understand what he's talking about?

7 A. He's talking about something that happened some,  
8 on where the sector meets, where they were, the gang of  
9 PVLS reside all the time, and they used it for -- for  
10 something. But, I can't recall what was that at that  
11 time.

12 Q. Where is the sector?

13 A. The sector is in Culmore.

14 Q. And what does he mean by "punishment"?

15 A. Punishment, that -- like I say, it could be a  
16 punishment for another gang member or for somebody  
17 they -- they think that he's -- he could have done  
18 something to them.

19 Q. Please turn to page 65 -- 67, and review the  
20 first third of the page there, the first five or six  
21 exchanges.

22 A. Okay.

23 Q. So, you say, "Oh, to the civilian in the face,  
24 man?" And you also say, "Is that the problem they're  
25 pinning on poor Skinny?"

1 Do you remember what was being talked about here?

2 A. Yes. I remember it was a -- they have a problem  
3 with a regular person, and, I believe that the -- this  
4 person, he was being disrespectful to the gang and to  
5 their clique.

6 And Poison got the gun and -- and he said that he  
7 shoot the guy, part of his face or something. But  
8 that's -- that's all I can recall at that time.

9 Q. When you say "Poison," are you talking about  
10 Poison in El Salvador, or Lil Poison, or someone else?

11 A. Lil Poison from PVLS.

12 Q. Now, when you said that "They're pinning it on  
13 poor Skinny," what did you mean by that?

14 A. They were blaming Skinny from PVLS for that.

15 Q. And how did Leopardo respond when you attempted  
16 to confirm if that was the incident?

17 A. He -- um --

18 Q. In other words, did he confirm or did he deny  
19 that he's talking about the incident that was pinned on  
20 Skinny?

21 A. No, no, he confirm it. That's what they were  
22 blaming for Skinny.

23 Q. We'll go now to Government's Exhibit 15-A-1.

24 What is the date of this recording, on the cover  
25 page?

1 A. It's May 9, 2014.

2 Q. And, in this recording, who are you speaking to?

3 A. Oh. I was talking to Leopardo from PVLS, or  
4 Gatito.

5 Q. And why are you talking to him yet another time  
6 in this very short period of time?

7 A. Just, like I said, we -- we all have contact with  
8 him for anything that he want to talk about, or if I can  
9 find something else.

10 Q. Let's turn to page 20, please. Please review  
11 this page.

12 A. Okay.

13 Q. What's the topic of conversation between you and  
14 Leopardo on this page?

15 A. We're talking about Lil Guasón, how he was.

16 Q. In that first long response from Leopardo, in the  
17 second half of it he says, "The one that steals from the  
18 clique, homeboy, you know, that one that breaks the  
19 rules, you know, of the hood." What is he talking  
20 about?

21 A. He's talking about the rules of the gang, if you  
22 broke a rule of the gang, pretty much it has to be a  
23 punishment, and pretty much they're going to -- they're  
24 going to kill you.

25 Q. He continues to say, "That dude is trash, you

1 know." Who is he talking about?

2 A. About Lil Guasón.

3 Q. What does he mean by "trash"?

4 A. He means nothing for them.

5 Q. What do you mean?

6 A. For them, he -- he don't mean -- he was trash.  
7 He doesn't mean anything to them. They -- they -- they  
8 can't see him like a recruit, like a homeboy. He's just  
9 trash.

10 Q. A couple lines later, you ask him, "But it was  
11 just because he stole from the clique, then?" Why are  
12 you asking that?

13 A. I was asking the reason. I mean, if -- if there  
14 is another reason for it, other, that they claim that  
15 Lil Guasón stole from them.

16 Q. How does Leopardo respond to your question?

17 A. He was -- well, it was for many other reasons,  
18 that they think that Lil Guasón was disrespectful for  
19 them, calling them -- if they tried to call his  
20 attention, and he chose pretty much, sometimes calling  
21 them little fools, they didn't know anything.

22 That's the biggest disrespectful way, because  
23 they already homeboys and Lil Guasón wasn't.

24 Q. What's the problem with someone who's not yet a  
25 homeboy being disrespectful to homeboys in his clique?

1 A. It's -- you're going to get punishment.

2 Q. What kind of punishment can you get for a *chequeo*  
3 being disrespectful to homeboys?

4 A. Just depend. If it is disrespectful, they can  
5 beat you for 13 seconds. It just depend.

6 Q. Towards the end of page -- or actually towards  
7 the end of that long response, Leopardo says, "I  
8 stopped" -- then you start to interrupt, and he  
9 continues -- "that dude's bullshit." "I stopped that  
10 dude's bullshit." What does that mean?

11 A. That he kill him.

12 Q. What is the "dude's bullshit"?

13 A. Whatever they thought that he was too messy,  
14 like, he wasn't respectful or the gossip, that they talk  
15 about Lil Guasón wasn't following the rules, so, he  
16 pretty much saying that he kill him, so he wouldn't do  
17 none of that stuff any more.

18 Q. Please turn now to page 21, and review that page.

19 A. Okay.

20 Q. The top of the page, that first long response,  
21 which continues from the previous page, Leopardo says,  
22 "I had the 32 and then I didn't hit that dude, you know,  
23 because some kids came out, you know, and you know that  
24 you can't do anything in front of kids." What is he  
25 talking about?



1       A.   He's talking about a hit that he was planning to  
2 do, but he didn't do it because there were some kids  
3 around.

4       Q.   What's wrong with doing a hit in front of kids?

5       A.   Because people might see it, and their kids  
6 and -- some of the cliques, they don't like to do  
7 anything in front of kids.

8       Q.   He continues and says, towards the bottom of that  
9 response, "And the son of a bitch burned me. He told  
10 Poison that I didn't have the balls to do something like  
11 that." Who told Poison?

12      A.   Lil Guasón.

13      Q.   And what Poison are we talking about?

14      A.   Lil Poison from PVLS.

15      Q.   At the time of Lil Guasón murder, what was Little  
16 Poison's role in the clique?

17      A.   He was the first word.

18      Q.   Skipping one response from Leopardo, in the  
19 middle of the page, there's a long response, and  
20 Leopardo says, "So then I told Poison, 'leave him to me,  
21 dog,' I told him. 'This dude already, already -- I want  
22 him to see,' I told him, and for him to see me in the  
23 day that I go hit this son of a bitch." What is he  
24 talking about?

25      A.   He's talking about the date that he kill Lil

1 Guasón. He want to make sure that Lil Guasón see him,  
2 that he was -- he was killing him, too.

3 Q. At the end of that he says, "With him, I'm going  
4 to -- with him, I'm -- I'm going to prove myself with  
5 him." What does that mean?

6 A. He's going to prove himself to Lil -- Lil Poison,  
7 to how crazy he is in killing is -- it means nothing to  
8 him.

9 Q. How was he going to prove himself to the first  
10 word, Lil Poison?

11 A. By killing Lil Guasón, and do whatever he wants  
12 to do with Lil Guasón.

13 Q. In the next response, he says something about a  
14 toy. Do you know what he meant by "a toy"?

15 A. Yeah. It could be a gun, it could be a knife, it  
16 could be a machete; just a weapon, pretty much.

17 Q. Is that code?

18 A. Yes.

19 Q. Why does the gang use the word "toy" as code for  
20 a weapon?

21 A. Just, that way they talking, the police won't  
22 find out what they're talking about.

23 Q. In that same response, after he says "toy," he  
24 says, "Anxious and waiting, wanting to get -- to go at  
25 him, you know, before the time, you know, and eat him

1 first myself, you know, right?" What's he talking  
2 about?

3 A. He's talking about how anxious he was, that he  
4 wants to be the first one to kill Lil Guasón.

5 Q. When he says, "and eat him first," what does  
6 "eat" mean?

7 A. Kill him.

8 Q. Is that code?

9 A. Yes.

10 Q. You then ask, "But, did you even get a chance?"  
11 What did you mean?

12 A. I asked him if he got a chance to do what he  
13 wants to do. Like he told me, he wants to make sure he  
14 see his face before killing Lil Guasón.

15 Q. He responds, "No, man. At least I got to cut the  
16 son of a bitch's head off." What did you understand  
17 that to mean?

18 A. The way that -- he's saying that he cut his head  
19 off, Lil Guasón's head.

20 Q. Then you ask where the head ended up. How does  
21 Leopardo respond when you ask where the head ended up?

22 A. He says, beneath him.

23 Q. What did you understand that to mean?

24 A. That they bury the body, they put the head first  
25 and then the body.

1 Q. Please turn to page 22.

2 Please review a little over half of this page,  
3 through the line where Leopardo says, "You know what? I  
4 would like for everyone who sees me to shake with fear."

5 A. Okay.

6 Q. What are you talking about -- what are you and  
7 Leopardo talking about in this excerpt?

8 A. We just talking about the -- how Lil Guasón --  
9 that he couldn't sleep, but he was kind of appearing to  
10 Leopardo sometimes, because, you know -- I told him that  
11 probably because he cut his head off, so he follow him.

12 Q. When you say "appearing," that Lil Guasón was  
13 appearing to Leopardo, what does that mean?

14 A. He always says that he sometimes sees the body of  
15 Lil Guasón as a ghost.

16 Q. At the top of the page, Leopardo says, "That's  
17 why I'm telling you that he was following us." What  
18 does he mean by "following us"?

19 A. He told me once that he thought that Lil Guasón  
20 was following them, him and Lil Slow and Solitario.

21 Q. And then a little later, you say, "He wouldn't  
22 leave you in peace, dude?"

23 And Leopardo responds, "Yeah, man. And besides,  
24 I finished breaking his legs. I even got his bones to  
25 come out." Did you understand that to mean, literally,

1 he broke his legs?

2 A. Yes.

3 Q. The last line I ask you to review, Leopardo says,  
4 "You know it. I would like for everyone who sees me to  
5 shake with fear, you know, to feel the presence." The  
6 presence of what?

7 A. The presence of the devil.

8 Q. Please turn to page 23.

9 Please read the very last line there, what  
10 Leopardo says, and then we'll continue to page 24 for  
11 context.

12 A. Okay.

13 Q. Please turn to page 24 and read that page, and  
14 look up when you're done.

15 A. Okay.

16 Q. At the top of the page, Leopardo says, "I haven't  
17 controlled it very well." What hasn't he controlled?

18 A. We were talking about he -- he hasn't controlled  
19 and decided to kill, when he told me that there's some  
20 demons that he feel inside of him.

21 Q. Continuing down the page, right before that very  
22 long paragraph, Leopardo says, "No man, the day that we  
23 hit the little hen, homeboy" -- and then continuing into  
24 the long paragraph, he says, "That time, you know, we  
25 got real crazy, you know, in the room celebrating with

1 the homies the death of that son of a bitch." What is  
2 he talking about?

3 A. He's talking about when they kill Lil Guasón,  
4 they were celebrating.

5 Q. Where were they celebrating?

6 A. They were celebrating that they kill Lil Guasón.

7 Q. Do you know where they were celebrating?

8 A. In Culmore.

9 Q. He then says -- he continues and says, "He was  
10 crying, homeboy. I was crying because I wanted to kill  
11 someone that time, you know. That demon came into me,  
12 you know. I cried, homeboy, because of the anxiety to  
13 kill someone."

14 What did you understand that to mean?

15 A. That he was crazy, and he always claiming the  
16 devil and the demons, and, you know, went to my head,  
17 that he already kill someone, and he's celebrating, but  
18 he still want to kill more, and he was even crying just  
19 to kill.

20 Q. Was this conversation before or after you went  
21 with Leopardo to find the bodies?

22 A. I can't recall it.

23 Q. Continuing in the same paragraph here, he says in  
24 the middle, "I would laugh my ass off crying, homeboy,  
25 from wanting to kill, you know. All of the homeboys

1 kept staring at me." What did you understand that to  
2 mean?

3 A. That most of the homeboys, PVLS clique, that were  
4 with him, they were kind of scared, why he was -- he was  
5 acting that way.

6 Q. What way?

7 A. Crying and laughing at the same time, and they  
8 just kill someone, and he was acting up that way.

9 Q. What was he crying and laughing about?

10 A. About, they already killed Lil Guasón, and he  
11 wants to kill more.

12 Q. Continuing in that same paragraph, he says, "And  
13 I'd cry while laughing my ass off, you know, right, and  
14 I would tell the homeboys that I wanted to kill. I  
15 would tell them, you know, and -- and Perezoso was all  
16 panic stricken, and then, the Pollo was there, too, you  
17 know."

18 Do you understand who he is talking about when he  
19 says "the Pollo"?

20 A. Yeah. It was just a *paro* for them, they used to  
21 give them ride all the time.

22 Q. He continues, after saying "Pollo," he says,  
23 "That's Pikachu, who would just stare at me all panic  
24 stricken." Are Pollo and Pikachu the same person, or  
25 different people?

1 A. Same person.

2 Q. When he says that "Pikachu would stare at me all  
3 panic stricken," what do you understand him to mean?

4 A. He was scared. He was scared of him.

5 Q. Why?

6 A. Because he thought that -- he was the only *paro*,  
7 he wasn't even a homeboy, a recruit, and he wants to  
8 kill, and he was the only one that probably can get  
9 killed.

10 Q. Leopardo continues and says, "I would turn to  
11 look at him and wanting to kill the dude, you know,  
12 right? The dude wouldn't even face me. Can you believe  
13 it."

14 Could you believe it?

15 A. Yeah.

16 Q. Why?

17 A. I mean, because he -- it's true. He was crazy.  
18 And, someone is just a *paro*, is not a -- probably they  
19 don't want to be in the gang. They just want to, you  
20 know, get along. And, they will feel -- they would feel  
21 scared.

22 Q. After this long response from Leopardo, you asked  
23 him twice, "Was that the day that Poison took you to the  
24 little hen?" What are you asking him?

25 A. I'm asking -- I just asking, is that the day they



1 killed Little -- Lil Guasón.

2 Q. Why are you clarify that he's talking about the  
3 day that he killed Lil Guasón?

4 A. Just to make sure, to understand how he was  
5 acting up and why he was -- he was acting that way.

6 Q. Please turn to page 25.

7 How does he respond to your question about  
8 whether the day he's describing as the day that they  
9 killed Lil Guasón?

10 A. They already have bury Lil -- Lil Guasón.

11 Q. When you asked, "And you still had cravings  
12 afterwards," what are you asking?

13 A. I'm asking if -- if he already kill someone, why  
14 he still wants to kill more -- more people.

15 Q. How did he respond?

16 A. He say yes. He just -- he still craving, because  
17 he always claim because of the demons.

18 Q. Let's go now to Government's Exhibit 16-A-1.  
19 What's the date on this transcript?

20 A. May 10, 2014.

21 Q. Who were you talking to in this recording?

22 A. I was talking to Leopardo, or Gatito, from PVLS.

23 Q. This recording is after the one we just looked  
24 at; is that right?

25 A. Yes.

1 Q. Why, after hearing that long response from  
2 Leopardo about wanting to kill, did you continue talking  
3 to him?

4 A. I mean, that's the only way that you can get  
5 information. You cannot -- you cannot give them a  
6 chance to suspect anything on you, even though it's hard  
7 for you to hearing, or probably you don't want to hear  
8 it. But that's how -- the only way that you can find  
9 out information.

10 Q. Was it hard for you to hear what Leopardo was  
11 saying?

12 A. Yeah, it was -- it was, you know. I thought  
13 what -- he was something else.

14 Q. Please turn to page three of this translation.  
15 Please read this page and look up when you're  
16 done.

17 A. Okay.

18 Q. What are you and Leopardo talking about on this  
19 page?

20 A. We talking about going to a park and try to scare  
21 some guys from Silvas.

22 Q. What park?

23 A. Same park that they kill Lil Guasón and Lagrima.

24 Q. Why did you want to go to that park?

25 A. Because at that point, like I say, I was trying

1 to find a way to go and -- and feel comfortable at the  
2 same time, just to find where the bodies were.

3 Q. You said you're talking about going there to  
4 scare some guys from Silvas. Was that your real reason  
5 for wanting to go to park?

6 A. No. It was the reason to find the bodies.

7 Q. Why were you talking about scaring guys from  
8 Silvas?

9 A. Because there were some guys from Silvas, like  
10 recruits, that they were there, and they always talking  
11 that they were not behaving good. So, instead of to --  
12 I not allowed to be in any violence, I could come up  
13 with ideas, I just scare them.

14 Q. And why would you need to come up with an idea to  
15 scare them? Why were you telling Leopardo that?

16 A. Because, he knows the park and he likes all the  
17 kind of stuff, that evil, and talking about the devil.

18 Q. Why were you hoping he would take you to the  
19 park?

20 A. Because he always saying that the park, that's  
21 his first wish, to take him to a park, that's his first  
22 reaction.

23 Q. And why did you want to go to that park?

24 A. To find the bodies.

25 Q. About two-thirds of way down the page, Leopardo

1 says, "But with their hands, and let them dig a hole  
2 there in the middle, you know, right, you can there --  
3 there, you know, scalding water, you know, I'm going to  
4 dump in there so all of that gets dissolved." Do you  
5 know what he's talking about?

6 A. Yeah. He's talking about the bodies -- of the  
7 body of Lil -- Lil Guasón.

8 Q. When he says "scalding water," do you know what  
9 that means?

10 A. It's kind of an acid that you pour. That's what  
11 we were talking about and that's what I understand.

12 Q. And what would be the purpose of acid with the  
13 body?

14 A. Just dissolve the body of Lil Guasón.

15 Q. Why?

16 A. Because they don't want nobody to find out.

17 Q. Please continue to page four. Please review page  
18 four.

19 A. Okay.

20 Q. About a third of the way down the page, Leopardo  
21 says, "Once we're there, just, you know, we will be  
22 taking -- we will cover our noses, you know, because  
23 that shit is going to stink." What smell is he talking  
24 about?

25 A. He's talking the smell of Lil Guasón body.

1 Q. You say, "Of death, man?" How does he respond?

2 A. He say yeah.

3 Q. Then he says, "And those clothes, you know,  
4 right, bring an extra one, you know." Why is he telling  
5 you to bring extra clothes?

6 A. Because, it's going to smell bad and it  
7 penetrates to your clothes. So you need to have an  
8 extra one.

9 Q. What is going to smell bad?

10 A. The body of Lil Guasón.

11 Q. Continuing down the page, you ask him, "That  
12 stench stays with you that much?"

13 And he responds, "That stuff is almost like a  
14 skunk, man."

15 What he's talking about?

16 A. Lil Guasón's body.

17 Q. Please continue to page five. Please review this  
18 page.

19 A. Okay.

20 Q. All right. At the top of the page, you say, "And  
21 the hen? Did the big hen stunk, man?" Who's the hen or  
22 the big hen?

23 A. Lagrima.

24 Q. Why do you bring up Lagrima here?

25 A. Because he was -- they kill in the same -- in the

1 same park.

2 Q. And how did he respond when you asked if  
3 Lagrima's body smelled?

4 A. He said yes, he -- his body stink.

5 Q. A little further down, Leopardo says, "What's  
6 more, right, the dude, he was heavy, too, you know."

7 And you say, "The dude was heavy?"

8 What are you talking about?

9 A. About Lagrima.

10 Q. And when you say "heavy," what does that mean?

11 A. Lagrima was kind of big. He was tall. So that's  
12 why I was asking.

13 Q. Then you say, "Which one of the those two homies  
14 got that homie out, man?" What are you asking him  
15 there?

16 A. I was asking him, who was the one who get him out  
17 when they went to unbury him and bury him back.

18 Q. Who did Leopardo say was involved in reburying  
19 Lagrima's body?

20 A. He says it was Duende, himself, Lil Evil and Lil  
21 Tuner.

22 Q. Who is Lil Tuner?

23 A. Lil Pesadilla from PVLS.

24 Q. Is that the Pesadilla who you identified in  
25 court?

1           A.    Yes.

2           Q.    Leopardo says, "No, man, only that chick Eva was  
3 the only asshole." What is he saying about the chick  
4 Eva or Lil Evil?

5           A.    That Lil Evil was the one that he didn't want to  
6 do it, pretty much. He was kind of chicken out all the  
7 time.

8                   THE COURT: Excuse me, Counsel.

9                   We're going to recess for lunch now for one  
10 hour.

11                  Ladies and gentlemen, please do not discuss  
12 the case nor permit the case to be discussed in your  
13 presence. And leave your notes in the jury deliberation  
14 room.

15                  I've made arrangements for some of you, who  
16 want to use the ninth floor, to use the ninth floor jury  
17 room. There will another jury in there. And just like  
18 you, they've been instructed not to discuss the case,  
19 and you've been instructed not to discuss the case. So  
20 feel free to use that area if you would like, ninth  
21 floor. Thank you.

22                  We're in recess. Two o'clock.

23                  (Court recessed at 1:00 p.m. and reconvened  
24 at 2:05 p.m.)

25                  THE COURT: Ready to bring the jury out? Is

1 everybody ready?

2 MS. MARTINEZ: Yes, Your Honor.

3 THE COURT: Okay. You can bring the witness  
4 back and bring our jury out, Mr. Toliver. Thank you.

5 (Jury present.)

6 (Witness resumed stand.)

7 THE COURT: You may be seated.

8 DIRECT EXAMINATION (Continued)

9 BY MS. MARTINEZ:

10 Q. Good afternoon.

11 When we left off, we were on Government's  
12 Exhibit 16-A-1, page five. I just have a few questions  
13 left on this page, on the bottom quarter of the page.

14 Do you need to refresh your memory about this  
15 page, or are you ready for questions?

16 A. I will read it.

17 Q. Okay.

18 And just to refresh every's recollection, since  
19 we had a lunch break, at the top of the page, you  
20 referred to the hen, and the big hen. Who are you  
21 talking about?

22 A. Lagrima.

23 Q. Continuing down to the last quarter of the page,  
24 Leopardo says, "I put that son of a bitch on my  
25 shoulder." What do you understand him to be describing?



1 A. That he put Lagrima's body on his shoulder.

2 Q. When?

3 A. When they unbury him.

4 Q. And then continuing, he says, "I put the head on  
5 my shoulder, you know, and the hands there on my back,  
6 and 'let's go.'" Again, what is he describing?

7 A. He's describing that he was carrying Lagrima's  
8 body.

9 Q. Please continue to page six. At the top of the  
10 page, the first thing Leopardo says is, "No, and anyway  
11 since I was going to, we put him inside a bag, you  
12 know." What do you understand that to mean?

13 A. He -- they put Lagrima in a bag, Lagrima's body  
14 in a bag.

15 Q. For what purpose?

16 A. To unbury -- to bury him again.

17 Q. And if you continue a few lines down, there's  
18 line there where you say, "We'll see what we can come up  
19 with. This afternoon I'll call Stone to see what we can  
20 come up with." What are you talking about?

21 A. Just talking about that -- if we're going to meet  
22 that day to go and take a look at the park.

23 Q. Please turn your attention to Government's  
24 Exhibit 17-A-1.

25 What is the date of this recording?

1 A. It's May 12, 2014.

2 Q. And who are you talking to in this recording?

3 A. I'm talking to Leopardo, or Gatito, from PVLS.

4 Q. The same Leopardo?

5 A. Yes.

6 Q. Why are you talking to him yet again?

7 A. The same thing, it's just trying to find the  
8 bodies, see if I can see where they are.

9 Q. Please go to page nine. Please review this page  
10 and look up when you're done.

11 A. Okay.

12 Q. What are you and Leopardo talking about on this  
13 page?

14 A. He's just talking about the same, that we  
15 planning to go to a park, and taking the two homeboys  
16 from Silvas.

17 Q. What park?

18 A. To the park that they kill Lagrima and Lil  
19 Guasón.

20 Q. For what purpose?

21 A. To find the bodies.

22 Q. The first line there, you say, "So if those dudes  
23 from the houses go down, they pass right on top of those  
24 homies?" What homies are you talking about?

25 A. Lil Guasón and Lagrima.

1 Q. What houses are you talking about?

2 A. The houses that are around the park.

3 Q. When you went to the park, could you see these  
4 houses?

5 A. Yes.

6 Q. Where were they?

7 A. They were around the park. They were not in the  
8 park, but you can -- you can able to see it from part of  
9 the park.

10 Q. Leopardo responds with this long response, and at  
11 the end of it he says, "Because you can tell that  
12 something was buried there." When you went to the park,  
13 could you tell that something was buried there?

14 A. Um, it felt -- it looks like -- it wasn't even,  
15 like, the rest of the -- the park -- the park.

16 Q. What do you mean by that?

17 A. You can tell something -- something was off.

18 Q. What did it look like?

19 A. It looks like -- like, you were digging something  
20 and then put the dirt back on it.

21 Q. Halfway down the page, Leopardo says, "What I'm  
22 planning is, I'm going to tell you, we're going to take  
23 them to where the hen is at, you know?" Who's he  
24 talking about taking to the hen?

25 A. He's talking about going to Lagrima's body.

1 Q. And then, you -- you ask, "Where -- by where --  
2 where about is the hen then?"

3 Leopardo responds, "At the same place."

4 What are you talking about?

5 A. The park.

6 Q. And where is Leopardo saying Lagrima's body is?

7 What is he saying it's close to?

8 A. It's -- it's close to Lil Guasón's body.

9 Q. Please continue to page ten. Please review this  
10 page and look up when you're done.

11 A. Okay.

12 Q. At the top, Leopardo says, "If you dig there,  
13 it's there, well, you know, alive -- not alive, but all  
14 of the skin is there, everything, you know, still  
15 whole." What is he talking about?

16 A. He's talking about Lagrima's body.

17 Q. What did you understand him to mean when he said  
18 that it's still whole?

19 A. The whole body is still there.

20 Q. Then later, two lines down, he says, "Like,  
21 already disintegrating, you know." What does that mean?

22 A. Like he's -- what I understand is that -- that  
23 probably you won't even recognize Lagrima, because of  
24 the skin.

25 Q. And in that longer response, he says, "We're

1 going to make them stand there, and I'm going to tell  
2 them, 'you know what you're standing on, right, man?'"  
3 Who was he talking about, making them stand there?

4 A. Stone and Uzi.

5 Q. And what is he talking about making them stand  
6 on?

7 A. On top of where Lagrima and Lil Guasón were bury.

8 Q. He continues, "That's why I want to take them to  
9 the little hen, because they -- you know, the little hen  
10 happened a short time ago, you know." What does that  
11 mean, "the little hen happened a short time ago"?

12 A. Lil Guasón -- Lil Guasón's murder just happened  
13 not that long ago.

14 Q. Which murder happened first, Lagrima or Lil  
15 Guasón?

16 A. Lagrima's.

17 Q. Continuing down the page, a little bit further  
18 down, Leopardo says, "And we're going to -- there I'm  
19 going to tell them the name of that asshole, you know.  
20 'You guys are standing on this asshole.' I'm going to  
21 tell them, right, 'What's up? You don't want to get him  
22 out?'"

23 What does he mean, don't you want to get him out?

24 A. Um, he was going to -- tell them that if they  
25 want to get Lagrima's body out.

1 Q. Why does he say, "I'm going to tell them the  
2 name" of Lagrima?

3 A. Because, he wants to make sure that they know who  
4 was bury in that hole.

5 Q. What's significant about that?

6 A. So that he can -- so that way they know, and they  
7 can get scared, that if you don't follow the gang rules,  
8 you're going to end up like Lagrima.

9 Q. Please turn to page 11, and please review that  
10 page and look up when you're done.

11 A. Okay.

12 Q. A few lines from the top, you ask -- or you say,  
13 "The problem is that they -- you're not seen from the  
14 houses. That's the problem." Why are you asking about  
15 the houses in the park?

16 A. Because I was asking if they able to see from the  
17 houses that he was talking about.

18 Q. If who could see from the houses?

19 A. The people in the house, they can see anybody in  
20 the park.

21 Q. How does he respond?

22 A. He says -- - he say they didn't -- they not able  
23 to see it from the houses.

24 Q. About halfway through the page, he says --  
25 Leopardo says, "We were even digging there and they

1 didn't hear us or nothing, man." What did you  
2 understand him to be digging?

3 A. The hole.

4 Q. What hole?

5 A. The hole for Lagrima's or Lil Guasón's bodies.

6 Q. In that long response by Leopardo, he says, in  
7 the middle, "But, like by the woods and the edge of the  
8 river." What is he describing there?

9 A. He's describing where Lil -- Lil Guasón body was.

10 Q. And then he talks about the swell of the river,  
11 and says, "it makes a lot of noise." What's the  
12 significance of the river making noise?

13 A. It's just the water, that he's going through the  
14 little river, makes a lot of noise. That's what he's  
15 describing.

16 Q. So, you ask then, "There's a river besides there,  
17 too?" Why are you asking details like that?

18 A. Because, if I couldn't have all the details  
19 without me going with him or anybody else, when I go and  
20 find where the bodies were, without -- without going  
21 with them.

22 Q. His description of the houses and the woods and  
23 the river, is that consistent with what you saw when you  
24 went to where the bodies were buried?

25 A. Yes.

1 Q. I'd like to direct your attention to Government's  
2 Exhibit 18-A-1. What is the date of this audio-video  
3 recording?

4 A. It's May 15, 2014.

5 Q. What day did Leopardo finally take you to the  
6 park to see the bodies?

7 A. May 15th.

8 Q. What is this transcript of, this May 15th  
9 transcript?

10 What is -- what's happening in it?

11 A. Oh, we went to the park.

12 Q. When you went to the park, what did you -- what  
13 equipment did you have with you?

14 A. I have a recording device.

15 Q. Who gave you the recording device?

16 A. My handler, FBI.

17 Q. What was the purpose of the FBI giving you a  
18 recording device?

19 A. To record where the bodies were.

20 Q. Before you met up with Leopardo that day, what  
21 did you do with the FBI?

22 A. I met with them first.

23 Q. For what purpose?

24 A. Just to talk, how we're going to approach and do  
25 it.



1 Q. What were you supposed to do?

2 A. Um, take the recording and go with Leopardo and  
3 make sure where the body was, and try to record the best  
4 way that I could.

5 Q. Let's go to page three of this transcript.

6 You see at the top where it says, "Preamble  
7 begins. This is Special Agent Fernando Uribe and  
8 Special Agent Brenda Born." Do you see that?

9 A. Yes.

10 Q. Who are Special Agent Fernando Uribe and Special  
11 Agent Brenda born?

12 A. Brenda Born was my handler, and Fernando is just  
13 an agent.

14 Q. Where were you supposed to meet Leopardo that  
15 day?

16 A. I was supposed to meet him on the McDonald, close  
17 to -- close to his house.

18 Q. Let's go to page four, please.

19 At the bottom of this page says, Leopardo says,  
20 "All right, I'm here in the parking lot."

21 And you say, "Oh, at the Mc."

22 What parking lot was it?

23 A. McDonald's.

24 Q. And Leopardo says, "In Pollo's car."

25 And you ask, "Pollo who, man?"

1           Whose car was Leopardo in?

2           A.   Pikachu or Pollo. He was just a -- a *paro* from  
3   PVLS.

4           Q.   Did Pikachu or Pollo, did he come into the park  
5   with you?

6           A.   No.

7           Q.   Please turn to page five.

8                Why didn't Pikachu go into the park with you?

9           A.   I guess he had something else to do. Because he  
10   was with Leopardo. I don't know what they had done  
11   before.

12          Q.   Who went into the park?

13                You and Leopardo -- was there anyone else?

14          A.   No, just me and him.

15          Q.   So, once you met up with him in the parking lot,  
16   where did you -- what did you do?

17          A.   We start into the park.

18          Q.   What did you talk about with Leopardo as you  
19   started heading into the park?

20          A.   We took a different styles, just try to make  
21   conversation, what was in the park, and, just trying to  
22   make him feel comfortable.

23          Q.   What was the park like?

24          A.   It was big. It was a big park. It was like the  
25   way that he was describing, describing it before.

1 Q. Do you know the name of the park?

2 A. No, I can't recall that.

3 Q. How long did it take you to walk to the first  
4 grave?

5 A. I would say probably 30 to 40 minutes.

6 Q. Were you in a park the whole time?

7 A. Yes.

8 MS. MARTINEZ: Your Honor, with the Court's  
9 permission, I'd like to play two short -- well, three  
10 short clips of this video recording. And there is a  
11 clipped transcript to go with it. I think the longest  
12 one is a little under two minutes.

13 THE COURT: Okay.

14 MS. MARTINEZ: This would be -- Government's  
15 Exhibit 18-B is the clip, and the transcript that goes  
16 with it is 18-B-1.

17 Your Honor, and the jury, for the record,  
18 the screen won't split, so the only thing that's going  
19 to come up on the screen will be the video. So the  
20 paper transcript will have to do for these videos, 18-B,  
21 18-B-1.

22 (Audio-video recording played.)

23 BY MS. MARTINEZ:

24 Q. Who was the individual you could see in that  
25 video?

1 A. Leopardo, from PVLS.

2 Q. Were you there?

3 A. Yes.

4 Q. Why couldn't you see you in the video?

5 A. Because I was the one who got the video camera.

6 Q. Where were you and Leopardo?

7 A. In the park.

8 MS. MARTINEZ: If we could put up 18 -- make  
9 sure I got the right number -- 18-B-1, the transcript  
10 that goes with that.

11 BY MS. MARTINEZ:

12 Q. What were you looking at, in that video that we  
13 just saw?

14 A. Where Lagrima's body was buried.

15 Q. Flip forward a couple pages, to the text. What  
16 did you understand Leopardo to mean when he talked about  
17 the acid?

18 A. Can you repeat the question again?

19 Q. Sure. If you look at the transcript, a couple  
20 lines down, he says, "I think that's because of the acid  
21 that it turned into a cave, man."

22 A. Um, I understand that there was a hole, and  
23 probably because they put the acid, that's why you --  
24 you were able to see a hole.

25 Q. What was the purpose of the acid?

1       A. To dissolve anything, any part of the body of  
2       Lagrima.

3       Q. At the bottom of this page -- and first, if you  
4       could look at the whole page, this page corresponds with  
5       the video that you just saw?

6       A. Okay.

7       Q. Is that a yes?

8       A. Yes.

9       Q. Okay. At the bottom of the page, the last three  
10      lines, you're talking about a deer eating him. What  
11      does that mean?

12      A. They -- he told me that a deer was eating  
13      Lagrima's body.

14      Q. Why was he saying that?

15      A. That's what he says.

16      Q. And then you say, "Why did that hole form?" Was  
17      there a hole that you could see?

18      A. Yeah, it was a hole we were seeing.

19      Q. How big was the hole?

20      A. I can't recall how deep or big it was, but it  
21      wasn't -- I would say, four or five inches long.

22      Q. Four or five inches?

23      A. Yes.

24      Q. Could you see into the hole?

25      A. If you go close, yes.

1 Q. Could you see the body?

2 A. No.

3 Q. When Leopardo in the video was crouched down and  
4 poking or digging, what was he doing?

5 A. He was covering the hole.

6 MS. MARTINEZ: Your Honor, with the Court's  
7 permission, I'd like to play now the clip of the video  
8 that is 18-D, and the transcript is 18-D-1.

9 May we publish, Your Honor?

10 THE COURT: Yes.

11 MS. MARTINEZ: And, Mr. Toliver, could we  
12 bring the transcript to the witness?

13 (Audio-video played.)

14 BY MS. MARTINEZ:

15 Q. Where were you in this part of the recording?

16 A. We were heading back. I was going to drop him  
17 off, Leopardo.

18 Q. Who were you with?

19 A. Just Leopardo.

20 Q. And whose voices could you hear in that  
21 recording?

22 A. Me and Leopardo.

23 Q. Do you have 18-D-1 in front of you there, the  
24 transcript?

25 A. Yes.

1 Q. Does that correspond with the video that we just  
2 watched?

3 A. Yes.

4 MS. MARTINEZ: If we could put 18-D-1 on the  
5 screen. Go to the first page with text.

6 BY MS. MARTINEZ:

7 Q. In the middle of that page there, you referenced  
8 Pikachu, and then Leopardo says, "Pikachu is afraid of  
9 you." Who is Pikachu?

10 A. He was a *paro* from PVLS, PVLS.

11 Q. Why were you guys talking about Pikachu at that  
12 time?

13 A. Because, we were just trying to make  
14 conversation.

15 Q. If you could flip to the next page, page seven.

16 In the middle of that page, you say, "That dude  
17 already knows. Does he already know what happened to  
18 the little chicken?" What dude are you talking about?

19 A. Um, Pikachu.

20 Q. And when you say "what happened to the little  
21 chicken," what do you mean?

22 A. Lil -- Lil Guasón.

23 Q. What did Leopardo respond?

24 A. That he knew.

25 Q. When he says, "Dumb ass Tuner was all drenched in

1 blood, right here on his shoe and his sock." First of  
2 all, who is Tuner?

3 A. Lil Tuner, Lil Pesadilla, from PVLS.

4 Q. Is that the Pesadilla you identified in court?

5 A. Yes.

6 Q. What did you understand Leopardo to mean when  
7 that Pesadilla's -- that Pesadilla was all drenched in  
8 blood on the shoe and his sock?

9 A. He had blood from Lil Guasón on his shoes.

10 Q. When?

11 A. When they kill him.

12 Q. Why is this relevant to Pikachu knowing?

13 A. Because I want to know if -- if Pikachu was the  
14 one who gave them a ride. Because, remember, nobody has  
15 to know the clique business, and Pikachu was just a  
16 *paro*, wasn't even a recruit.

17 Q. Did you ever learn whether or not Pikachu gave  
18 them the ride that day?

19 A. Yes.

20 Q. What did you learn?

21 A. That he did give them a ride that day.

22 Q. Leopardo then says, "He got in the car and he --  
23 and he could smell the, um, the smell of a blood -- the  
24 smell of the blood of a dead animal." What is he  
25 talking about?



1           A.    He's talking about blood -- the blood of Lil  
2   Guasón.

3           Q.    Whose car?

4           A.    Pikachu.

5           Q.    Please flip to page eight.

6                    You say to him at the top of the page, "That was  
7   really well -- that was covered really well, where you  
8   guys pulled him out, man. You can't see anything."  
9   What are you talking about?

10          A.    I'm talking about Lil -- Lil Guasón's -- when  
11   they -- where they buried Lil Guasón.

12          Q.    What did it look like where they buried Lil  
13   Guasón?

14          A.    It looks -- you can still see that something was  
15   off, but it was covered more than Lagrima's, where  
16   Lagrima's body was.

17          Q.    In that first recording, that video where he's  
18   digging and where you're talking about the small 4- to  
19   5-inch hole that you saw, was that at Lagrima's reburial  
20   site or Lil Guasón's site?

21          A.    Lagrima's.

22          Q.    Leopardo says at the very end of this excerpt,  
23   "No, because, we -- we came back to bury everything the  
24   right way, you know, and we covered everything up."  
25   What do you understand him to mean?

1           A.   That we went back to cover the hole and make it  
2   seem that nothing happened.

3           Q.   Now, in that video that we just watched, you said  
4   that you were returning, you were going to drop him off?

5           A.   Yes.

6           Q.   Where did you drop him off?

7           A.   I drop him off around his house.

8                   MS. MARTINEZ:  If we could play a very short  
9   clip, Your Honor -- and there's no transcript that goes  
10  with this -- 18-C.

11                   THE COURT:  All right.

12                   (Audio-video played.)

13           BY MS. MARTINEZ:

14           Q.   Who is that?

15           A.   That's Leopardo from PVLS.

16           Q.   Where are you in the very short clip?

17           A.   We're pretty much in the parking lot of -- of the  
18  park.

19           Q.   Once you dropped Leopardo off near his house,  
20  what did you do?

21           A.   I went back to my handler and the FBI agent.

22           Q.   Why did you do that?

23           A.   Because I knew that we had to go back and make  
24  sure, even though we have recorded, just, you know, make  
25  sure that we can able to see the bodies.

1 Q. Did you --

2 A. I mean, know the bodies there, where they bury  
3 the bodies.

4 Q. Did you go back?

5 A. Yes.

6 Q. With who?

7 A. With -- I know Fernando, but I can't recall the  
8 other guy.

9 Q. There was another guy?

10 Was that an FBI agent or someone else?

11 A. Both of them were FBI agents.

12 Q. What did you do when you took the two FBI agents  
13 back into the park?

14 A. We did the same thing that I went to Leopardo.  
15 We go around first to Lil Guasón's body, then we went to  
16 Lagrima's body.

17 Q. And why did you bring the two FBI's agents back  
18 to those locations?

19 A. Just to find where the body -- the bodies were.

20 Q. Why did you want to find the bodies?

21 A. Because, you know, I -- I know at that time, it  
22 was getting dark, and, we just -- I just got out, so I  
23 have a pretty good idea where to go in case something  
24 with the camera didn't catch it the right way. So we  
25 just want to make sure that I was able to go to the same

1 path that we took with Leopardo.

2 Q. Were you able to take the two agents to the same  
3 two locations --

4 A. Yes.

5 Q. -- that Leopardo took you?

6 A. Yes.

7 Q. Please turn to Government's Exhibit 19-A-1.

8 What is the date of this recording?

9 A. It was May 26, 2014.

10 Q. Who is involved in this recording?

11 Who are you talking to in this recording?

12 A. I'm talking to Lil Slow, or Suavecito, from PVLS.

13 Q. Who is Lil Slow from PVLS?

14 A. He's a full member of the clique, PVLS.

15 Q. Earlier, you mentioned a Slow who was a *chequeo*  
16 at Lagrima's murder. Is this the same Slow or a  
17 different Slow?

18 A. This is the same one.

19 Q. How long have you known Lil Slow?

20 A. Probably, I would say, six months or less than  
21 that.

22 Q. At this point?

23 A. Yes.

24 Q. Did you know him by any names other than Lil  
25 Slow.

1 A. Just Suavecito, Slow and Lil Slow.

2 Q. Had you met him in person at this point?

3 A. Yes.

4 Q. How many times?

5 A. I would say probably three or four times.

6 Q. Had you also spoken to him on the phone?

7 A. Yes.

8 Q. Approximately how many times?

9 A. I would say probably more than 20.

10 Q. If I could show you Government's Exhibit 76.  
11 Do you recognize that person?

12 A. Yes.

13 Q. Who is it?

14 A. Lil Slow from PVLS.

15 MS. MARTINEZ: Your Honor, government moves  
16 into evidence Government's Exhibit 76.

17 THE COURT: Received.

18 MS. MARTINEZ: May we publish?

19 THE COURT: Yes.

20 BY MS. MARTINEZ:

21 Q. All right. Now we're turning to the cover page  
22 of the transcript.

23 What was the purpose of your conversation with  
24 Lil Slow on May 26th?

25 A. Um, like I said, to find -- to find out more

1 details about the murders of Lagrima or Lil Guasón.

2 Q. Now, this was after you -- you knew where the  
3 bodies were, right?

4 A. Yes.

5 Q. So, what details were you still trying to find  
6 out?

7 A. Who was involved to Lagrima's murder, and who  
8 were involved to Lil Guasón's murder.

9 Q. Why did you want to know who was involved?

10 A. Um, because, I already -- I already, um -- at  
11 that time, I already knew who might be involved, but I  
12 just want to make sure from Lil Slow that he hasn't ever  
13 -- he hasn't talked that much, to probably tell me  
14 something else that probably I don't know.

15 Q. Why did you approach Lil Slow, who, as you said,  
16 didn't talk that much compared to, for example,  
17 Leopardo?

18 A. Um, because, Lil Slow, seems like he was easy  
19 going and easy to talk to him, and, it was easy for me  
20 to approach him instead of the other guys.

21 Q. By the time you approached him, what did you  
22 understand about his involvement in either of the  
23 murders?

24 A. That he -- he was involved on -- on both.

25 Q. Let's go to page one of this transcript. Please

1 review the second half of this page, and then I'll ask  
2 you a few questions.

3 A. Okay.

4 Q. Okay. First of all, what are you asking him?

5 A. I was asking who was involved. Um, at that point  
6 a lot of people were getting arrested, and, it was -- I  
7 was trying to help him, see if we can find the snitch or  
8 the rat. And I was asking him, we need to pretty much  
9 make -- take a look at who was involved in what murder,  
10 who's out and who's not, and then you probably will be  
11 able to tell who's the one who will be ratting you out  
12 or snitch, or talking to the police.

13 Q. So you're talking to Lil Slow about finding a rat  
14 or finding a snitch. Were you actually trying to find a  
15 rat or a snitch?

16 A. No.

17 Q. Why were saying that to Lil Slow?

18 A. So that way he can tell me who was involved in  
19 the murders of Lil Guasón and Lagrima.

20 Q. Did your strategy work?

21 A. Yes.

22 Q. Looking at what Lil Slow said -- well, let me ask  
23 you this: Who is AS in this conversation?

24 So there's CHS and there's AS.

25 A. Oh. CHS is me. AS is Lil Slow.

1 Q. So, Lil Slow, says, "Hear me out, though, you  
2 know. We were -- the homeboy" -- and then he continues  
3 and he says, "Peluquín." Who is Peluquín?

4 A. Peluquín is Peluca, Greñas from PVLS.

5 Q. And do you understand why he was naming Greñas  
6 right here?

7 A. He was naming Peluquín. He was the name they  
8 used for Greñas, Peluca, Peluquín.

9 Q. What is he saying here about Peluquín, Greñas?

10 A. He was involved in Lagrima's murder.

11 Q. The next words he says are "Lil Payaso." What do  
12 you understand him to be saying about Lil Payaso?

13 A. That he was -- he was part of Lagrima's murder as  
14 well.

15 Q. And Peluquín, Greñas, is that the Greñas you  
16 identified in court?

17 A. Yes.

18 Q. Lil Payaso, is that the Lil Payaso you identified  
19 here in court?

20 A. Yes.

21 Q. Continuing, he says, "La Evil." Who is La Evil?

22 A. It's Lil Evil, the one that they pretty much left  
23 the clique.

24 Q. What do you understand him to be saying about  
25 La Evil?



1       A.   He's referring to, like, disrespectful way, kind  
2   of like the female terms.

3       Q.   And why do you understand that he names Evil  
4   right here?

5       A.   Because that was his nickname, Evil, Lil Evil.

6       Q.   What is he saying Evil did?

7       A.   That he was part of that murder as well.

8       Q.   And continuing, it says, "Duende." What is he  
9   saying about Duende?

10      A.   He was part of Lagrima's murder, too.

11      Q.   Who is Duende?

12      A.   He's a gang member from PVLS clique.

13      Q.   Then he says, "and myself, man." What is he  
14   saying about "myself"?

15      A.   That he was involved, saying, "I was involved in  
16   Lagrima's murder."

17      Q.   You continue and you say, "And, and the -- and  
18   Skinny?" Why did you ask about Skinny?

19      A.   Because like I say, at that point I already knew  
20   who were kind of involved in that murder. But he was  
21   left -- he was leaving out Skinny. So I ask him again,  
22   if Skinny was involved.

23      Q.   How did he respond?

24      A.   Yes.

25      Q.   Then at the end of the page here, he says, "And

1 Skinny, but, right, but I came from that, you know,  
2 Gatito, Pesadilla moved him from there where he was at  
3 first." What is he saying about Pesadilla? What did  
4 Pesadilla do?

5 A. They -- Pesadilla was involved when they went  
6 back to unbury him and bury him back, Lagrima's body.

7 MS. MARTINEZ: Court's indulgence for just  
8 one moment.

9 THE COURT: All right.

10 BY MS. MARTINEZ:

11 Q. If you would turn to the next page, page two.  
12 At the very top of the page you use the name  
13 Gatito. Who are you talking about?

14 A. Leopardo.

15 Q. And then you say, "that when they took him out,  
16 when they took him out." What are you referring to?

17 A. When they took Lagrima's body out.

18 Q. Now, about halfway down the page, you say, "Now,  
19 now, right, cool. Look, you have to -- how many -- are  
20 you sure that those are the homeboys?" What are you  
21 asking?

22 A. I was just making sure that those are the  
23 homeboys that were Lagrima's body -- murder involved  
24 with.

25 Q. And did he confirm those homeboys?

1 A. Yes.

2 Q. So, you say, "Peluca?" Right?

3 A. Yes.

4 Q. Is that -- are you confirming whether Peluca was  
5 there?

6 A. Yes.

7 Q. And who is Peluca?

8 A. He's a PVLS gang member.

9 Q. How does Lil Slow respond?

10 A. Yes.

11 Q. Then you ask, "Skinny? Who else?" How does Lil  
12 Slow respond?

13 A. Yes, it was Skinny, too, involved in Lagrima's  
14 murder.

15 Q. And then he says, "Duende and the girl Evil."  
16 What does that mean?

17 A. Duende from PVLS and Lil Evil from PVLS was  
18 involved as well.

19 Q. Continuing to page three at the very top, he  
20 said, "Lil Payaso and I." What does that mean?

21 A. That Lil Payaso and himself also was involved in  
22 Lagrima's murder.

23 Q. And a couple lines down, he says, "Not Pesadilla,  
24 because he had an accident that night." What is he  
25 saying about Pesadilla?

1           A.    Pesadilla, he was -- he wasn't involved in the --  
2 when they killed Lagrima.

3           Q.    What do you understand Pesadilla's involvement to  
4 be with respect to Lagrima?

5           A.    That he was the one who went back to unbury  
6 him -- Lagrima, and bury him back.

7           Q.    Please continue to page four.

8                   At the top of the page, you say, "Now let's go to  
9 the problem of -- of that homie, of that homie that was  
10 called Lil Guasón." What are you asking Slow now?

11          A.    Now -- he already told me about Lagrima. We were  
12 going to go to Lil Guasón.

13          Q.    And why are you asking about Lil Guasón?

14          A.    Just to confirm who was involved in Lil Guasón's  
15 murder.

16          Q.    And once again, where are you trying to confirm  
17 who was involved in the murder?

18          A.    Just to make sure that if I don't -- if I didn't  
19 know anything else, so, at least something other I  
20 should know.

21          Q.    The next line down, you say, "That's the one you  
22 guys have a serious problem with, because the girl knows  
23 and the girl dined you out." What are you talking  
24 about?

25          A.    I'm talking about, they say Skinny's girlfriend,

1 she -- she was saying that they killed Lil Guasón to a  
2 lot of people. So, they thought that she was the one  
3 talking around, the neighbors, that they kill Lil  
4 Guasón.

5 Q. Do you know Skinny's girlfriend's name?

6 A. No.

7 Q. And why are you bringing that up to Lil Slow,  
8 excuse me, in this conversation?

9 A. Because that's -- that's how they -- they were  
10 kind of -- they have a problem that everybody and the  
11 neighbors were talking and a lot of people were getting  
12 arrested. So, that's my -- my first thing to tell:  
13 Well this girl is talking. It might be that's why you  
14 have a problem.

15 Q. And what did you hope Lil Slow would do when you  
16 told him he had a problem?

17 A. He will -- he would start figure out who was the  
18 one could be ratting, or also name the guys who were  
19 involved in Lil Guasón's murder.

20 Q. If you continue down to the next thing you say.  
21 You say, "So now you guys have to figure it out. Who  
22 were there. Who has given you a ride or something."  
23 Why are you asking about who gave them a ride?

24 A. Because, at that point I already knew that  
25 Pikachu was the one giving them a ride, so I want to

1 make sure that that was true, that someone gave them a  
2 ride.

3 Q. Was Pikachu involved in the murder?

4 A. Not that I know of.

5 Q. Now, continuing to about two-thirds of the page  
6 down, You ask about civilians. You say, "What civilians  
7 were there?"

8 And then he says, "It sounds to me like the  
9 gossip was between the chicks and the civilian."

10 What is a civilian?

11 A. A civilian would be like a *paro*, to -- probably  
12 they say something to a *paro*, or they -- somebody say  
13 something to a girl. So, that would be -- they would  
14 start talking to somebody else and the word got out.

15 Q. You do mean, someone else in the world (sic)?

16 A. The word got out that they killed Lil Guasón.

17 Q. I see.

18 Why did you want to know whether there were any  
19 civilians who knew about the murder?

20 A. Because, I want to know who else was involved and  
21 knew about Lil Guasón's murder.

22 Q. Continuing to the last thing that you say on this  
23 page, you say, "There were only like four or five  
24 homies, right, man, from the homie, the last one, right?  
25 And it's you and Gatito?" What are you asking about?

1           A. I'm just asking for him to tell me who was  
2 involved in Lil Guasón murder.

3           Q. Did he tell you?

4           A. Yes.

5           Q. Please turn to page five. You say, "Pesadilla."  
6 What are you asking about Pesadilla?

7           A. I ask him if he was involved in Lil Guasón's  
8 murder.

9           Q. How did Lil Slow respond?

10          A. Yes.

11          Q. Is that the Pesadilla you identified in court?

12          A. Yes.

13          Q. And then continuing down, Lil Slow says, "There,  
14 Duende was there, too, and, Lil Payaso." What do you  
15 understand him to be saying about Duende and Lil Payaso  
16 was there?

17          A. That Lil Payaso from PVLS was there, and Duende  
18 from PVLS was there.

19          Q. Lil Payaso from PVLS, the Lil Payaso you  
20 identified in court?

21          A. Yes.

22          Q. Now you repeat, "Duende?"

23               And he says, "Uh-huh. Lil Payaso."

24               You do this a number of times. Why do you repeat  
25 the names? What was the purpose of that?

1           A. I didn't know Duende was there. So, when he told  
2 me, that pretty much was the first time that I knew that  
3 Duende was involved.

4           Q. And did he respond whether or not Duende was  
5 involved?

6           A. Yes.

7           Q. All right. Then continuing, Lil Slow says,  
8 "Skinny wasn't there, nor was Greñas." Skinny and  
9 Greñas weren't there for what?

10          A. They were for Lagrima's murder.

11          Q. And what were they not there for?

12          A. For Lil Guasón's murder.

13          Q. Do you know why Skinny and Greñas weren't at Lil  
14 Guasón's murder?

15          A. They were in jail.

16          Q. Please turn to page six.

17               All right. At the top, you say, "The Lil Guasón  
18 one." Are you still asking about Lil Guasón's murder?

19               (Pause.)

20               I'm sorry --

21          A. Yes.

22          Q. Go ahead and review the page.

23          A. All right. Okay.

24          Q. What are you talking about with Lil Slow on this  
25 page?



1       A. I was asking him who were the one who were  
2 involved on Lil Guasón murder.

3       Q. And, who does he say were there and killed Lil  
4 Guasón?

5       A. It was Lil Payaso, Lil Pesadilla, Leopardo,  
6 Solitario, Duende, and Lil Poison.

7       Q. Leopardo, is that the Leopardo you ID'd in court?

8       A. Yes.

9       Q. Lil Payaso, is that the Lil Payaso that you ID'd  
10 in court?

11       A. Yes.

12       Q. Pesadilla, is that the Pesadilla you ID'd --  
13 identified in court?

14       A. Yes.

15       Q. Please turn to Government's Exhibit 20-A-1.

16       Oh. And before we go, who is Solitario?

17       A. He was -- at that time, he was a recruit from  
18 PVLS.

19       Q. Please turn to 20-A-1.

20       What is the date of this recording?

21       A. It's June 12, 2014.

22       Q. Who were you talking to in this June 12th  
23 recording?

24       A. I was talking to Big Poison, a member from El  
25 Salvador, a shot caller.

1 Q. Is this the same Poison in El Salvador you talked  
2 about earlier in your testimony?

3 A. No -- yes, yes, it is.

4 Q. And, who is Big Poison in El Salvador?

5 A. He's the shot caller.

6 Q. What does "shot caller" mean?

7 A. They -- they think that they control part of the  
8 clique in El Salvador.

9 Q. What clique is Big Poison a part of?

10 A. PVLS.

11 Q. Please turn to page seven. Please review page  
12 seven and look up when you're done.

13 A. Okay.

14 Q. What are you and Big Poison talking about on this  
15 page?

16 A. Um, I was trying to talk to Lil Poison -- I mean,  
17 Big Poison, because I know he always calling in -- he  
18 was pretty much using all the guys over here from his  
19 clique, just to get money out of them. And, you know, I  
20 knew how -- how -- pretty much, kind of talk to him, and  
21 I was trying to find out if he was -- he knew about the  
22 murders that happened with Lagrima and Lil Guasón.

23 Q. Why were you trying to find out if Big Poison  
24 knew about the murders of Lagrima and Lil Guasón?

25 A. Just to make sure he's the one who gave the okay

1 to the clique.

2 Q. Why would you want to know that?

3 A. To give information to my handlers.

4 Q. There's two sets of letter speakers here, JR and  
5 BP?

6 A. JR is me. BP is Big Poison.

7 Q. The first long thing that you say here, at the  
8 top, about halfway down, you say, "That last kid that  
9 they hit, Crimen told them, you know, 'fuck, that  
10 doesn't happen in El Salvador. They first hit the chick  
11 and then the dude.'"

12 Who are you talking about, "that last kid that  
13 they hit"?

14 A. Lil Guasón.

15 Q. And who is Crimen?

16 A. Oh. He's a member of PVLS in New York.

17 Q. What do you understand it to mean when -- or what  
18 did you understand when Crimen told them, "that doesn't  
19 happen in El Salvador. They hit first the chick and  
20 then the dude"?

21 A. They first kill the girl and then they kill the  
22 guy who messed with the girl.

23 Q. Why are you saying that when you're talking about  
24 Lil Guasón?

25 A. Because, that's -- that's one of the reason that

1 they say that they killed Lil Guasón, because he was --  
2 he was messing with Skinny girlfriend.

3 Q. Is that the same girlfriend who was telling  
4 people that the gang had killed Lil Guasón?

5 A. Yes.

6 Q. Continuing in the same thing here, you say, "Who  
7 had given the okay?" What does that mean?

8 A. Who gave the okay to kill Lil Guasón.

9 Q. And you continue and say, "You" -- sorry -- "We  
10 thought that you already knew about those decisions."  
11 What does that mean?

12 A. Um, like I said, they always ask down there to  
13 get the okay to kill someone, and that's what I want to  
14 make sure he knew about it.

15 Q. And what did Big Poison say when you asked or you  
16 said that you thought he knew about it?

17 A. He -- he -- he told me that he knew about it, but  
18 he didn't know the details.

19 Q. When he responds and says, "They only told me  
20 that they were doing a job about -- about someone that  
21 had been disrespectful," what did you understand by him  
22 saying "they were doing a job"?

23 A. That they were killing someone.

24 Q. And, when he says, "someone that had been  
25 disrespectful," what did you understand that to mean?

1       A. Disrespectful could be stealing money from the  
2 gang, um, being -- not following the gang rules, and one  
3 example would be sleeping with somebody -- a homeboy's  
4 girlfriend.

5       Q. About halfway through this response that he  
6 continues, he says, "You know that if you hit a dude  
7 from the Mara, then you have to hit that fucking chick  
8 too, homie, you know?" What does that mean?

9       A. They have to kill the girl as well. If they kill  
10 the guy, they have to kill the girl, too.

11       Q. Then he says, "The truth is, I don't know if they  
12 counted on Payaso or with whom, right, but they didn't  
13 count on me." What is he talking about counting?

14       A. That they didn't ask him.

15       Q. About what?

16       A. About killing Lil Guasón.

17       Q. And who is Payaso?

18       A. Payaso was the -- the first word in jail from  
19 PVLS.

20       Q. The same Payaso we've talked about during your  
21 testimony?

22       A. Yes.

23       Q. Continuing to almost the end of the page, the  
24 second-to-last thing that Big Poison says, he says,  
25 "Here, when a homeboy fucks your boyfriend, another

1 homeboy's girlfriend, he dies, dog." Where is "here"?

2 A. El Salvador.

3 Q. Then he says, "Yeah, yes, dog, those are the laws  
4 of the hood here in El Salvador." What are the laws of  
5 the hood?

6 A. That you -- that you cannot get involved with a  
7 homeboy's girlfriend. They're going to kill you and  
8 kill the girl.

9 Q. Please continue to page eight. Please review the  
10 first half of this page up to those black -- the black  
11 box there.

12 A. Okay.

13 Q. So, here again Big Poison talks again about  
14 killing for having sex with a homeboy's girlfriend. Why  
15 does that matter to the gang?

16 A. Because that's the rule that you -- you have to  
17 follow that rule. You cannot do that at all.

18 Q. Why not?

19 A. Because they're going to kill you.

20 Q. After he says that, you respond and you bring up,  
21 or you say, "that chick Lagrima." Is that Lagrima?

22 A. Yes.

23 Q. The first murder victim?

24 A. Yes, that's Lagrima.

25 Q. Why did you bring up Lagrima with Big Poison?

1           A.    Because I want to know if he gave the okay to  
2   kill Lagrima.

3           Q.    Why?

4           A.    Just to get information to my handlers.

5           Q.    Please continue to page nine. Please review the  
6   first half of this page.

7           A.    Okay.

8           Q.    What are you asking Big Poison about on this  
9   page?

10          A.    I'm pretty much asking the same thing. He was --  
11   he knew about Lagrima, if he gave the okay.

12          Q.    In the middle of that section, I asked you to  
13   read, Big Poison says, "The first thing, yes, the  
14   second, no." What did you understand that to mean?

15          A.    The first part of Lagrima, yes, he knew, he gave  
16   the okay. He knew about it; not the second murder,  
17   which was Lil Guasón.

18          Q.    And then he repeats later, "Yes, but yes with the  
19   first thing, but no with the second man."

20          A.    The same thing, Lagrima, first, that he knew  
21   about it, but no, Lil Guasón.

22          Q.    Please turn to Government's Exhibit 21-A-1.  
23                What is the date of this recording?

24          A.    June 27, 2014.

25          Q.    And, in this recording, who are you talking to?

1       A. I'm talking -- I'm talking to Lala and Duende, or  
2 Enanito, from PVLS.

3       Q. Start with Duende. Who is Duende?

4       A. He's a gang member from PVLS.

5       Q. Have you met him in person?

6       A. No.

7       Q. Have you spoken to him on the phone?

8       A. Yes.

9       Q. About how many times?

10      A. I'd say probably 10, 10 times. I'm not sure.  
11 Probably.

12      Q. Who is Lala?

13      A. Lala was a girl, that you -- it was easy to call  
14 her and find where Duende was.

15      Q. Had you met Lala in person?

16      A. No.

17      Q. Had you spoken to her on the phone?

18      A. Yes.

19      Q. Why was it easy to call her and find where Duende  
20 was?

21      A. Because she always show us -- with the homeboys.

22      Q. Why did you call her on this day?

23      A. Because I want to talk to Duende.

24      Q. Why did you want to talk to Duende?

25      A. Because I learn during -- I believe during the



1 weekend something happened, somebody got killed. So, I  
2 knew where the sectors of PVLS and different cliques  
3 used to hang out, and pretty much they -- that's what  
4 call it, control. So -- and, I was just trying to find  
5 out.

6 Q. You heard that -- you said you heard that someone  
7 got killed. Are you talking about Lagrima or Lil Guasón  
8 or someone else?

9 A. Someone else.

10 Q. Why were you calling -- why did you want to talk  
11 to Duende about this other murder?

12 A. Because, like I say, I learned it, that someone  
13 got killed, and got kids and a family, so -- and where  
14 he got killed, I knew that that's where Duende used to  
15 be all the time.

16 Q. Where was the murder?

17 A. On Chirilagua, Alexandria, somewhere around  
18 there.

19 Q. Please turn to page one, and please review that  
20 page.

21 A. Okay.

22 Q. Starting at the top of the page, who is JR?

23 A. That's me.

24 Q. Who is LA?

25 A. Lala.

1 Q. And then you say, "Hey, put Enanito on," who is  
2 Enanito?

3 A. He is Duende, from PVLS.

4 Q. Then two lines down, JC, says, "Hey." Who is JC?

5 A. He's Duende.

6 Q. Continuing to that first long response from  
7 Duende -- well, let me ask you: In the second half of  
8 this page, what is Duende talking about, generally?  
9 What is he describing?

10 A. He was describing a problem that they have on  
11 Chirilagua with someone, who had an altercation with  
12 words, and -- and, they were kind of being -- he felt  
13 that they were being disrespectful to them.

14 Q. Talking -- starting at the top of what Duende  
15 said, he said, "Look, when all that mess happened, you  
16 know, right, it was like 5:00, no, let's say  
17 7:00 o'clock, or something like that." What is he  
18 talking about?

19 A. He's talking about when they killed a guy in  
20 Chirilagua.

21 Q. And, then he says, "Me and this homie, the one  
22 that just got out, you know, right?" What did you  
23 understand that to mean?

24 A. I knew that someone got out, and he -- he was the  
25 homie. He -- they say that he was a homie, but he

1 wasn't a homie.

2 MS. AMATO: Objection.

3 THE COURT: I'm sorry. What was the  
4 objection? I can't hear you.

5 MS. AMATO: I'll withdraw.

6 THE COURT: It's always important for you  
7 all to stand up and speak loudly so I can hear you.  
8 Thank you.

9 Go ahead.

10 BY MS. MARTINEZ:

11 Q. What did you understand him to mean by "the one  
12 that just got out"?

13 A. He just got out of jail.

14 Q. Who?

15 A. Another -- another guy.

16 Q. And what was the significance of this other guy  
17 in this conversation?

18 A. That he was part of when they killed this other  
19 person in Chirilagua.

20 Q. Continuing to the next long paragraph by Duende,  
21 he says, "And I told him, 'hey, look, man, doggy,' I  
22 told him, right, 'these sons of bitches are assholes.'"   
23 What is he talking about?

24 A. About people, they have the discussion, they were  
25 disrespectful to them.

1 Q. He continues, "I tell them, 'hey, so what the  
2 fuck, fucking kids. La Mara,' I told them. I flashed  
3 the Mara, you know." What does that mean?

4 A. That means that, you know, if you a gang member,  
5 that's the first thing you're going to say, you know,  
6 show off, you know, the sign of La Mara, MS-13.

7 Q. When you say it's the first thing you're going to  
8 say, what do you mean? To who?

9 A. To any other person that is not a gang member, or  
10 a rival gang member. They don't care. They need to  
11 make sure that they represent the MS-13.

12 Q. Why does the homeboy need to make sure he's  
13 representing MS-13?

14 A. Because, that's what they live for, just MS-13.

15 Q. Continuing about halfway down that paragraph, he  
16 says, in quotes, "'Hey right, go get your gang of  
17 rabbits or what the fuck,' I told him." What's that  
18 about?

19 MS. AMATO: Your Honor, I'm going to object  
20 to the form of the question. The speaker in this  
21 conversation, that would be asking him to interpret.

22 MS. MARTINEZ: He was involved in the  
23 conversation. I'm asking his understanding of the  
24 conversation that he was involved in.

25 MS. AMATO: That's fine. She can ask that

1 way, what's your understanding, but not what is he  
2 saying.

3 THE COURT: All right. I'll sustain the  
4 objection. Rephrase.

5 BY MS. MARTINEZ:

6 Q. When Duende says, in quotes, "'Hey, right, go get  
7 your gang of rabbits or what the fuck,' I told him,"  
8 what do you understand him to be saying?

9 A. They were disrespectful to Duende, to pretty much  
10 to MS-13, the other -- the other guys.

11 Q. Continuing down in that same line there, three  
12 lines from the bottom, Duende says, "This homie has a  
13 buddy there in Chirilagua, you know, right? And that  
14 homie kind of has the piece, man." What did you  
15 understand that to mean?

16 A. That he has a gun.

17 Q. When it starts with "this homie has a buddy,"  
18 what homie is he talking about?

19 A. He's talking --

20 MS. AMATO: Objection.

21 THE COURT: Overruled.

22 THE WITNESS: -- the homie, he just got out  
23 of jail.

24 BY MS. MARTINEZ:

25 Q. So, who just got out of jail?

1           A.    The homie, the -- Duende think that he's a homie.

2           Q.    All right. And then it says that that homie has  
3 a buddy. Who's the buddy?

4           A.    He's the buddy of the homie that -- who got out  
5 of -- just got out of jail.

6           Q.    And continuing, it says, "and that homie kind of  
7 has the piece." What's the piece?

8           A.    It's a gun.

9           Q.    And which one had the piece? The guy who just  
10 got out of jail, or his buddy?

11          A.    His buddy.

12          Q.    Then he says, "So then the son of a bitch told  
13 me, 'so what the fuck, should we go for it?' 'Let's do  
14 it, doggy,' I told him."

15               What do you understand that to mean?

16          A.    That they had a gun and they want to go after  
17 these guys.

18          Q.    And when it says -- that same line again, "So  
19 then the son of a bitch told me, 'so what the fuck,  
20 should we go for it?'" Who do you understand to have  
21 said "so what the fuck, should we go for it?"

22          A.    He's the homie that got out of jail.

23          Q.    Please continue to page two -- he continues, from  
24 page one to page two, "So then the homie got a hold of  
25 the piece, man, you know."

1           What do you understand that to mean?

2           A.   They were able to get the gun from the -- from  
3           the guy who got out of jail's buddy.

4           Q.   And who went and got the gun?

5           A.   The guy who got out of jail and Duende.

6           Q.   Then he continues, "So, I went with the homie,  
7           you know, right? And that's when all the trouble  
8           started, doggy."

9           What do you understand that to mean?

10          A.   That's when they killed the guy.

11          Q.   Continuing, "So, then the sons of bitches started  
12          to tell us shit, doggy." What do you understand it to  
13          mean when he says, "tell us shit"?

14          A.   That they were disrespectful to the gang, to  
15          them, to MS-13.

16          Q.   Is it dangerous to be disrespectful to MS-13?

17          A.   Yes. They -- they don't take anything  
18          disrespectful at all.

19          Q.   What could happen to a random person who is  
20          disrespectful to MS-13?

21          A.   They will kill you if they had a chance.

22          Q.   Continuing, he said, "So I jumped on one of those  
23          sons of bitches to bust him in the mouth, dog, you know?  
24          So then, while I was punching him on the face, I just  
25          heard boom. Son of a bitch."

1           What do you understand that to mean?

2           A.   Um, a gun, a gun, a gun went off.  Somebody --  
3           somebody shot someone.

4           Q.   Then he says, "That's when I saw the son of a  
5           bitch on the floor."  Who do you understand to have been  
6           on the floor?

7           A.   The guy that I learned that was killed, over the  
8           news.

9           Q.   Now, you respond and say, "But the problem, man,  
10          is maybe the dude didn't even go down, man, and they're  
11          throwing you under the bus, homeboy."  What were you  
12          saying to Duende there?

13          A.   I was just trying to get more information.  I  
14          already knew that that guy was dead.  I just want him to  
15          make sure, if he knew about it, that the guy was -- he  
16          was dead.

17          Q.   You were trying to confirm that he knew --

18          A.   Yes.

19          Q.   -- that the guy was dead?

20                When you said, "throwing you under the bus," what  
21          did you mean by "throwing you under the bus"?

22          A.   That probably he's not there, then just police is  
23          just looking for him for no reason.

24          Q.   Now, a couple lines later, Duende says, "Somebody  
25          was saying it was me, you know, right?"  What do you



1 understand that to mean?

2 A. They -- they know him on -- in Chirilagua, some  
3 people, and they assumed it was him, the one who killed  
4 the guy.

5 Q. Was it?

6 MS. AMATO: Objection. Objection.

7 THE WITNESS: No.

8 MS. AMATO: Objection, Your Honor,  
9 speculative, foundation.

10 THE COURT: Are you referring to the  
11 transcript or personal information?

12 MS. MARTINEZ: From information he learned  
13 from gang members.

14 THE COURT: Lay a foundation first.

15 BY MS. MARTINEZ:

16 Q. Did you learn who fired the gun?

17 A. Yes.

18 Q. Who did you learn who --

19 THE COURT: How did you learn it?

20 BY MS. MARTINEZ:

21 Q. -- who fired the gun from?

22 THE COURT: How did you learn it?

23 THE WITNESS: I learned it from Duende.

24 BY MS. MARTINEZ:

25 Q. Who is Duende?

1 A. He's a gang member from PVLS.

2 Q. What did you learn about who fired the gun?

3 A. He told me that this -- this guy, Taliban, that  
4 he got out of the jail, was the one who killed the guy.

5 Q. Taliban, you said?

6 A. Yes.

7 Q. Is that the same guy who just got out of jail  
8 that we're talking about in this transcript?

9 A. Yes.

10 Q. All right. Now, you have a long response here,  
11 starting with, "Now, now, you have to find out, man."  
12 Would you read that response of yours, and then I'll ask  
13 you a question.

14 A. Okay.

15 Q. What are you saying to Duende there?

16 A. Um, I was just pretty much just trying to find  
17 out who was involved, who was the one who provide the  
18 gun to them.

19 Q. Why were you trying to find that out?

20 A. Because, that would be easy for FBI to find out,  
21 who provide the gun, if they find the gun.

22 Q. Please continue to page four. Towards the bottom  
23 of page four, do you see where you say, "What other  
24 test? If you have to, if you have seen, man," do you  
25 see that line?

1 A. Yes.

2 Q. Please read from there to the bottom and I'll ask  
3 you a couple questions.

4 A. Okay.

5 Q. That section starts with you saying, "What other  
6 test? If, if you have -- if you have seen, man, that  
7 the dude hit -- himself hit the dude, what other test do  
8 the homeboys want?"

9 What do you mean?

10 A. Um, remember, to become a gang member, you have  
11 to kill someone. So, and he's already telling me that  
12 Taliban kill these guy. So, he -- he pretty much is  
13 ready to become a gang member, a full gang member.

14 Q. Did you ever learn whether Taliban wanted to  
15 become a full gang member?

16 A. Yeah. I mean, yes. He -- he said that he wanted  
17 to be part of PVLS clique.

18 Q. Now, when it says -- when you said, "The dude  
19 himself hit the dude," what did you -- what were you  
20 saying there?

21 A. That Taliban killed the guy.

22 Q. And, what does "test" mean in this context?

23 A. That's the test that the MS-13, every clique  
24 going to ask you to do, you're going to kill someone  
25 when you have the opportunity.

1 Q. Duende responds, "That's right. That's exactly  
2 right, man." What do you understand him to be  
3 confirming?

4 A. He was confirming the guy did kill the other  
5 person.

6 Q. Then he says, "No man, dog, that was some crazy  
7 shit, you know, right? I told the son of a bitch there,  
8 'cool, you know, you have your balls, son of a bitch,  
9 and you've earned my respects, homie.'"

10 Who did you understand Duende was saying he said  
11 that to?

12 A. To Taliban.

13 Q. And what do you understand that he was telling  
14 Taliban?

15 A. That -- that since he saw that he killed the guy,  
16 that he earned his respect. There was nothing else to  
17 say, that he was -- he was a homeboy.

18 Q. The last line here, you say, "I don't know the  
19 homeboy. So what's with him? Is he -- is the homeboy  
20 tatted, or what the fuck, man?" What homeboy are you  
21 asking about?

22 A. Taliban.

23 Q. Why do you ask whether Taliban -- well, first of  
24 all, what is "tatted"?

25 A. It's tattoos.

1 Q. Why are you asking about tattoos with respect to  
2 Taliban?

3 A. Because since I don't know these guys, I need to  
4 get an idea, if they have any tattoo or anything, in  
5 case I -- I need to go talk to them, or, or -- it would  
6 be easy also for the FBI to at least have an idea that  
7 they do have a tattoo.

8 Q. Please turn to page five. Please read the first  
9 respond from Duende in response to your question about  
10 tattoos.

11 A. Okay.

12 Q. What does he say about whether Taliban has  
13 tattoos?

14 A. He did have a seal of El Salvador.

15 Q. He continues and says, "and he's got some ink on  
16 the chest that says, *perdona madrequita por tus*  
17 *lagrimas.*" What does *perdona madrequita por tus lagrimas*  
18 mean?

19 A. It's a -- forgive me, mother, for all your tears.

20 MS. MARTINEZ: For the court reporter, I'll  
21 spell that Spanish sentence. *Perdona* is p-e-r-d-o-n-a.  
22 *Madrecita* is m-a-d-r-e-c-i-t-a; *por*, p-o-r; *tus*, t-u-s;  
23 *lagrimas*, l-a-g-r-i-m-a-s.

24 BY MS. MARTINEZ:

25 Q. Where did you understand he had that tattoo?

1           A.    He had that tattoo on his chest.

2           Q.    You respond and you say, "That's what I'm telling  
3   you, and what's up with the dude?  It's -- it's a matter  
4   of him talking with the homies than to see if they're  
5   going to jump him in now, you know?"  What are you  
6   talking about?

7           A.    Um, I was just trying to find out more  
8   information and if -- if these guys, they're going to  
9   become a gang member, a full gang member.

10          Q.    Which guy?

11          A.    Taliban.

12          Q.    Then you say, "Yes, that thing is already --  
13   well, to, to clear up that shit with Poison, that the  
14   dude already, already has proved himself there in  
15   Chirilagua."  Who's Poison in this sentence?

16          A.    He's Lil Poison.

17          Q.    And what's the relevance of Lil Poison here?

18          A.    Because, they were thinking that this guy -- who  
19   was this guy?  They didn't know him, and they were kind  
20   of skeptical about -- about him.

21          Q.    What was Little Poison's role or position in PVLS  
22   at the time?

23          A.    He was the first word.

24          Q.    And what role does the first word in a clique  
25   play with respect to new gang members?

1           A.    He has to -- he has to get the okay in order to  
2    jump in a new member.

3           Q.    When you said, "The dude already, already has  
4    proved himself there in Chirilagua," what were you  
5    referencing?

6           A.    About that he -- he was the one who killed the  
7    guy in Chirilagua.

8           Q.    A little bit later, Duende says, "Well, yes,  
9    doggy, you know, but remember, that when one gets an  
10   opportunity like that, dog, you know, hey, you're not  
11   going to let it pass."

12                What do you understand Duende to be saying there?

13           A.    Like I mention before, MS-13 is about killing.  
14   And, they -- if you are recruiting, you're trying to  
15   become a full member, you're going to have that  
16   opportunity to prove to them that you want to be a gang  
17   member, and you're going to kill someone.

18           Q.    And what opportunity specifically was Duende  
19   referencing here?

20           A.    The -- that the -- Taliban killed the guy in  
21   Chirilagua.

22           Q.    Please go now to page 11. Please review this  
23   page and then I'll ask you some questions.

24           A.    Okay.

25           Q.    All right. What are you talking about with

1 Duende on this page?

2 A. Um, I was talking the same murder, when they  
3 killed the guy in Chirilagua.

4 Q. A little less than halfway down the page, Duende  
5 says, "Part of me is happy, too, because, yeah, we  
6 showed them fucking asshole kids there what we're made  
7 of, dog, you know. And none of the doggies has gotten  
8 busted, dog, right?" What is he saying?

9 A. He's saying they happy they kill the guy, to show  
10 them that you don't play with the MS, and nobody had  
11 gotten arrested yet.

12 Q. For what?

13 A. For killing the guy in Chirilagua.

14 Q. When you respond, one of the things you say is,  
15 "Well, you don't need a shit load of people to do some  
16 cool shit, man." Why did you say that?

17 A. Because, I wanted to make sure who else was  
18 involved on, on that murder, if there was someone else  
19 that he hasn't tell me anything about it yet.

20 Q. Why did you want to know who else was involved?

21 A. To get information to my handler.

22 Q. Who does he say was involved?

23 A. It was him, Taliban and Gatuso.

24 Q. Who is Gatuso?

25 A. He is a gang member from Via Satélite clique.



1 Q. Have you ever met Gatuso?

2 A. Yes.

3 Q. Where did you meet Gatuso?

4 A. I went to meet him a couple of times, when he was  
5 on the run.

6 Q. Before or after the murder?

7 A. After the murder.

8 Q. Why did you go meet him after the murder when he  
9 was on the run.

10 A. Because, it was easy for me to talk to him, gain  
11 some trust, because he think that nobody trust him. So  
12 it was easy for me to approach, and also find out if  
13 everything matched for what they were saying.

14 Q. Why did you want to gain his trust?

15 A. To -- to tell me how, and who gave them the gun,  
16 how it happen, and what did they go after, and all kind  
17 of details.

18 Q. And did he actually tell you those details?

19 A. Yes.

20 Q. Did it match what Duende was saying?

21 A. Yes.

22 Q. What did you do with that information?

23 A. Give it to -- the information to the FBI.

24 Q. Please go to Government's Exhibit 22-A-1.

25 What is the date of this recording?

1           A.    June 29, 2014.

2           Q.    And then at the bottom of the cover page, who are  
3 the participants in this recording?

4           A.    It was Lil Payaso from PVLS, Duende from PVLS,  
5 and Taliban.

6                       MS. MARTINEZ: Court's indulgence one  
7 moment.

8 BY MS. MARTINEZ:

9           Q.    Please go to page one.

10                   THE COURT: Let's start with page one after  
11 the break. We'll take the afternoon recess now for  
12 15 minutes. Thank you.

13                   (Court recessed at 3:29 p.m. and reconvened  
14 at 3:47 p.m.)

15                   THE COURT: You can bring our witness back  
16 and bring our jury out, please.

17                   (Witness resumed stand, jury present.)

18                   THE COURT: You may be seated.

19                   MS. MARTINEZ: May I proceed, Your Honor?

20                   THE COURT: You may proceed.

21 BY MS. MARTINEZ:

22           Q.    Before the break, we were on Government's  
23 Exhibit 22-A-1, a June 29th, 2014, call with you,  
24 Duende, Lil Payaso and Taliban.

25           A.    Yes.

1 Q. Starting with the individuals participating in  
2 this conversation, who is Duende?

3 A. He's a gang member from PVLS.

4 Q. Is that the same Duende you were talking to in  
5 that call two days earlier?

6 A. Yes.

7 Q. Who is Lil Payaso?

8 A. A gang member from PVLS as well.

9 Q. Is that the same Lil Payaso that you identified  
10 here in court?

11 A. Yes.

12 Q. And who is Taliban?

13 A. He's a, a guy who just got of jail, that he wants  
14 to become a homeboy.

15 Q. Is that the Taliban that was referenced in the  
16 call with Duende two days earlier?

17 A. Yes.

18 Q. Please go to page one.

19 First of all, why were you calling?

20 A. Um, just to, you know, because I know at that  
21 time it was Lil Poison and Payaso who were pretty much  
22 the first and second word of PVLS, so they're the one  
23 who got the check this guy, because he was planning to  
24 become a gang member from his clique, nobody else's  
25 clique. So that's why I called and try to see what else

1 they were saying.

2 Q. What else they were saying about what?

3 A. About the murder and, you know, if he can say,  
4 "Well, I killed someone, so, now I'm good to go in order  
5 to become a gang member."

6 Q. And why specifically did you want to talk to Lil  
7 Payaso, the second word?

8 A. Because, he was one of the -- they can get the  
9 okay for Taliban to become a gang member.

10 Q. Please review page one.

11 A. Okay.

12 Q. There are three speakers on this page. Who is  
13 JR?

14 A. That's me.

15 Q. Who is OC?

16 A. That's --

17 Q. We can go back.

18 A. You can go back if you want.

19 Q. You want to go back to the cover page. Who is  
20 OC?

21 A. He's Lil Payaso.

22 Q. Who is JC?

23 A. He's Duende, from PVLS.

24 Q. And, although he's not on this page one, how is  
25 Taliban noted on the cover page, with what letters?

1 A. With CJ.

2 Q. That's Duende.

3 And then Taliban?

4 A. It says TN.

5 Q. Continuing back to page one, Lil Payaso says,  
6 "What's up? Junior is there. Are you with -- aren't  
7 you with Taliban?"

8 Who is Lil Payaso talking to?

9 A. To Duende.

10 Q. And how does Duende respond?

11 A. He was with him and Taliban was there.

12 Q. And then, Lil Payaso says, "Put him on to talk to  
13 the homie for a little bit." Who is the homie?

14 A. Taliban.

15 Q. Please turn to page two. Please review this  
16 page.

17 A. Okay.

18 Q. Okay. So on the last page, Lil Payaso asked  
19 Duende to put Taliban on the phone. Did he put Taliban  
20 on the phone?

21 A. Yes.

22 Q. Lil Payaso says, "All right. I'm Lil Payaso from  
23 Park View, man." Why did he introduce himself that way?

24 A. Because every gang member has to introduce to  
25 another gang member, what's your nickname and what

1 clique you're from.

2 Q. Who is he talking to?

3 A. Taliban.

4 Q. Then he says -- Lil Payaso says, "This homie has  
5 told me about you, you know, that you're hanging with  
6 him." Who's the homie who told him?

7 A. Duende.

8 Q. And, who did Duende tell Lil Payaso about?

9 A. Taliban.

10 Q. And when he says, "that you're hanging with him,"  
11 that Taliban is hanging with Duende, what do you  
12 understand that to mean?

13 A. That he's with Duende all the time.

14 Q. In what way?

15 A. On -- just go on the street and they collect --  
16 control -- controlling the neighbor, and to represent  
17 the MS-13.

18 Q. What do you mean by "controlling the  
19 neighborhood"?

20 A. See if there is any rival gang, or there is any  
21 problem that they -- some other guys might have with the  
22 gang.

23 Q. What do you mean by "representing MS-13"?

24 A. That's what they do, MS-13. They -- they need to  
25 let it all out, that they -- they are in the -- the

1 sector, and they know it's controlled by MS.

2 Q. Continuing down the page, Lil Payaso says,  
3 "Right. So, we can have a nice talk, you know. And  
4 well, you know and we can see what's up, you know,  
5 right, to see how we can work." Do you understand what  
6 he was saying.

7 A. Yes.

8 Q. What was he saying?

9 A. Pretty much, he was going to talk to him and he  
10 was going to -- they were going to decide if he going to  
11 get jumped into the clique.

12 Q. If who was going to get jumped into the clique?

13 A. Taliban.

14 Q. Taliban responds, "Okay, yeah, yeah. That's how  
15 it will be then, because I'm determined, you know."  
16 What did you understand him to mean when he said,  
17 "I'm determined"?

18 A. He -- he wants to be a gang member. He wants to  
19 be part of MS-13.

20 Q. Then he says, "The doggy has -- he's already seen  
21 my photo like that, you know." Do you understand what  
22 he meant by "seen my photo"?

23 A. Yes.

24 Q. What did you understand by "seen my photo"?

25 A. That he already kill someone.

1 Q. Why does "seen my photo" mean that Taliban had  
2 killed someone?

3 A. That when they use a gun, and they -- they see  
4 the -- I will say, no light, but kind of flash of the  
5 gun, that's, for them, that kind of pictures. So, they  
6 put a picture, and they're the one who did the job, so,  
7 they kill someone. That's -- that's why they call it  
8 picture.

9 Q. Is it a code?

10 A. Yes.

11 MR. AQUINO: Objection. I'd like to  
12 approach.

13 THE COURT: All right.

14 (Thereupon, the following side-bar  
15 conference was had:)

16 MR. AQUINO: Your Honor, it appears to me  
17 that they're trying to put in evidence of a prior bad  
18 act, namely another murder. And, they never noticed us  
19 that they were going to put on evidence of another  
20 murder, independent of this charge.

21 MS. MARTINEZ: May I respond, Your Honor?

22 THE COURT: Yes.

23 MS. MARTINEZ: It's very clear to me, but I  
24 will be happy to clear it up with the witness so that  
25 the jury can understand, that he's talking about the



1 murder that your client is charged with, shooting the  
2 guy in Alexandria. That's the photo.

3 MR. AQUINO: I misunderstood that. I  
4 thought they were putting on evidence of a 404(b)  
5 nature. My fault.

6 THE COURT: All right.

7 (Thereupon, the side-bar conference was  
8 concluded.)

9 BY MS. MARTINEZ:

10 Q. In that same line there, where he says, "he's  
11 already seen my photo," and you said that that means a  
12 murder --

13 A. Yes.

14 Q. -- what murder did you understand that to mean?

15 A. The murder that he did in Chirilagua.

16 Q. Who did the murder in Chirilagua?

17 A. Duende and Taliban.

18 Q. Was anyone else there?

19 A. And Gatuso, from Via Satélite.

20 Q. Please turn to page three. Please review page  
21 three.

22 A. Okay.

23 Q. On this page, you're talking to Taliban, and you  
24 do a lot of talking, right?

25 A. Yes.

1 Q. What is it that you were trying to accomplish  
2 here?

3 A. I was trying to -- for him to talk to Payaso, to  
4 ask him that, you know, "I already kill someone and I  
5 want to become a full gang member of PVLS."

6 Q. What Payaso?

7 A. Lil Payaso from PVLS.

8 Q. Why were you trying to get Taliban to talk to Lil  
9 Payaso about becoming a full gang member?

10 A. Because he wants to become a gang member from his  
11 clique, and, only Park View first and second word can  
12 talk to them and decide they're going to agree to.

13 Q. And why were you trying to accomplish that?

14 A. Just to -- to find out information, give it to  
15 the handlers, and they know that that's why he committed  
16 the murder, to become a gang member.

17 Q. What information were you trying to figure out?

18 A. That he killed the guy in Chirilagua.

19 Q. The second thing you say here right at the  
20 beginning, you say, "We, Silva and Park View, have  
21 always walked hand in hand." What does that mean?

22 A. That means that back, long time ago, they say  
23 that Silvas and Park View, they were -- they were good,  
24 they were along, getting along each other all the time.  
25 But, I was not there.

1 Q. You were not what?

2 A. I was not there when -- that was a long time ago.

3 Q. What is Silvas?

4 A. It's a clique.

5 Q. Which clique?

6 A. It's a clique of MS-13.

7 Q. Is it a clique you were associated with?

8 A. Yes.

9 Q. What is Park View?

10 A. It's a clique of MS-13.

11 Q. Is it a clique that Lil Payaso was associated  
12 with?

13 A. Yes.

14 Q. What was Little Payaso's role in Park View, PVLS,  
15 at this time?

16 A. He was one of the shot callers, second words.

17 Q. At the end of that same paragraph by you, you  
18 say, "I told this guy that, well, that, 'fuck man, that  
19 because of the crazy shit you did that you were good to  
20 go.'" Who were you saying you told that to?

21 A. I told to Taliban.

22 Q. And when you say, "because of the crazy shit that  
23 you did,." Who did the crazy shit?

24 A. Taliban.

25 Q. What crazy shit did he do?

1           A.    That he killed someone in Chirilagua.

2           Q.    And when you said, "you're good to go," what does  
3 that mean?

4           A.    That he's ready to become a gang member.

5           Q.    One of the next things thing you say is, "So  
6 that, you know, you just jump over the fence." What do  
7 you mean, "jump over the fence"?

8           A.    It's a code the gang use, like you're going to  
9 jump in -- you're going to be jumped into the gang.

10          Q.    And why were you talking about Taliban being  
11 jumped into the gang?

12          A.    Because, I was just trying to get him to talk  
13 more about the murder and why he want to become a gang  
14 member.

15          Q.    Continuing on to the next thing you say, the next  
16 paragraph there, you say, "And likewise, you can explain  
17 it to this homeboy, you know, why you want to join the  
18 Mara." Why did you say that?

19          A.    Because he has to, like I say, he have to talk to  
20 the first word or second word of the PVLS, and that was  
21 Lil Payaso. So, that's why I want him -- for them to  
22 talk to each other.

23          Q.    How did Taliban respond when you said you can  
24 tell him why you want to join the Mara?

25          A.    He says that he -- he's being chilling like,

1 since he was five years old. That's what I understand,  
2 at that time, that he was -- he was -- he loves the  
3 Mara, that he always want to be part of the gang.

4 Q. You used the word "chilling." What do you  
5 understand that to mean?

6 A. Chilling is like, you hanging out with them until  
7 you become a gang member.

8 Q. Please go to page four. Please review the first  
9 half of page four.

10 A. Okay.

11 Q. At the top of the page, Taliban says, "I've been  
12 schooled by that homie and also by, by homeboy Tricky."  
13 What does "schooled" mean?

14 A. "School" means that someone from the gang, from  
15 MS-13, has been telling him what to do, the rules of the  
16 gang, in order for in the future for him to become a  
17 gang member.

18 Q. And then he says, "Who was the second of Park  
19 View around 2005?" Who was the second of Park View  
20 around 2005?

21 A. He says -- he says that it was a guy name Tricky  
22 from Park View.

23 Q. Do you know who Tricky is?

24 A. Yeah, I -- I know him, probably I saw him couple  
25 of times, but then I didn't get to know him that well.

1 Q. Then Taliban continues and he says, "They say  
2 that when the homeboy, you know, fell to the ground, he  
3 left, you know, but the beast brought him back, but  
4 without his mind, right?" What do you understand him to  
5 be saying there?

6 A. They tried to kill him, and he kind of died, but,  
7 he thinks that the devil brought him back alive.

8 Q. What's the --

9 A. But without -- without -- without -- he has an  
10 issue with the head, that, without his mind, like  
11 probably he didn't know who he was.

12 Q. What's --

13 MS. AMATO: Objection to speculative.

14 THE COURT: Overruled.

15 BY MS. MARTINEZ:

16 Q. What's the significance of Taliban talking about  
17 the beast or the devil here?

18 A. Because, that's one of the -- the devil and they  
19 always claim the devil, MS-13.

20 Q. Please turn now to Government's Exhibit 23-A-1.  
21 What was the date of this recording?

22 A. It was July 27, 2014.

23 Q. And if you look at the list of participants, who  
24 are the participants in this recording?

25 A. Was Lil Payaso from PVLS, um, and Lil Tuner from

1 PVLS, and myself.

2 Q. Do you remember this recording?

3 A. Yes.

4 Q. What kind of recording was it?

5 A. Um, it was a recording to -- it had a device on  
6 me that day.

7 Q. Now, at the top of the participant list it also  
8 lists two FBI special agents.

9 A. Yes.

10 Q. What was their involvement in this recording?

11 A. They were always -- I always talk to them first.  
12 We always -- before meet with these guys, they always  
13 were around.

14 Q. Where did this recording occur?

15 A. Woodbridge. It's a park in Woodbridge.

16 Q. Was this an in-person recording or on the phone?

17 A. In person.

18 Q. And you said it's Lil Payaso and Lil Tuner,  
19 Pesadilla. Are those two people you identified in  
20 court?

21 A. Yes.

22 Q. Please turn to page 29. Please review this page.

23 A. Okay.

24 Q. What are you and Lil Payaso talking about on this  
25 page?

1           A. I was talking about how Lil Guasón was, and, and  
2 when -- when they kill him, pretty much.

3           Q. Why were you talking to Lil Payaso now about  
4 killing -- about them killing Lil Guasón?

5           A. Because I wanted to get more information from Lil  
6 Payaso, why they kill Lil Guasón, that some people say  
7 that he was a cool guy.

8           Q. Why did you want to get more information?

9           A. I just give the information to my handler.

10          Q. All right. Now, you say at the top there, "The  
11 shit with that kid, man, I didn't know anything about  
12 Lil Guasón, man." Why were you saying that?

13          A. I was just trying to make it seem like I didn't  
14 know that much about it.

15          Q. Then you ask Lil Payaso, "Did you know him?" Did  
16 Lil Payaso know who?

17          A. Lil Guasón.

18          Q. How did he respond?

19          A. Yes, that he did.

20          Q. And Lil Payaso says, "He was calm, homie, but  
21 when you see -- sometimes the homie got pissed, homie,  
22 you know. Sometimes -- but sometimes the homie was  
23 cool, yeah." What was he talking about?

24          A. He was describing how Lil Guasón was, that he was  
25 cool and calm.



1 Q. Then at the end he says, "Homeboy is locked up  
2 for screwing his woman." What do you understand that to  
3 mean?

4 A. He's dead for being -- messing with a homeboy's  
5 girlfriend.

6 Q. A little bit later down the page, you say, "That  
7 son of a bitch Poison doesn't forgive, right, man, that  
8 Lil Poison, right?" Why are you asking about Lil  
9 Poison?

10 A. Because he was the type of person that -- that he  
11 was always -- he wasn't forgiving about anything. He  
12 always had it in their mind, somebody being  
13 disrespectful or didn't follow the rules.

14 Q. Lil Payaso says, "Yeah, it rained that day. I  
15 was coming home from work, homie, to be checking on that  
16 son of a bitch homie, wet homie, because it had rained  
17 that day." What day is he talking about?

18 A. The day that they killed Lil Guasón.

19 Q. He continues and says, "And those homies were  
20 around. I said, 'so what's going on?' Then, 'if you  
21 want to do this thing right now, it's a good time,' I  
22 told him." Do you know what thing he was talking about?

23 A. The murder of Lil Guasón.

24 Q. He says, "It was 11:00 o'clock and we went like  
25 at eight or something, you know."

1           And then you say, "In the morning." Do you know  
2 whether he was talking about the morning or the evening?

3           A. He was talking at night.

4           Q. Please turn to page 30.

5           How did he answer you?

6           A. It was at night.

7           Q. Please review the rest of the page.

8           A. Okay.

9           Q. Okay. The first long response from Lil Payaso,  
10 he says, "I told them right there, 'go right now, take  
11 these homies over there,' you know. We took him there  
12 to rip his coconut off." Who did they take?

13          A. Lil Guasón.

14               MS. RALLS: Your Honor, may we approach?

15               THE COURT: Yes.

16               (Thereupon, the following side-bar  
17 conference was had.)

18               MS. RALLS: Your Honor, I'm not quite sure  
19 how to phrase it, but Ms. Martinez is not reading the  
20 transcript accurately, and I think that's misleading to  
21 the witness.

22               There's a large -- there are many instances  
23 of unintelligible speech that the translators have  
24 noticed in the transcription, and, it is misleading to  
25 the witness and to the jury for Ms. Martinez to ask

1 about those sections without including the  
2 unintelligible sections. I think she's  
3 mischaracterizing the evidence.

4 THE COURT: So you want her to read the  
5 "unintelligible"?

6 MS. RALLS: Yes, Your Honor.

7 MS. MARTINEZ: Your Honor, if  
8 "unintelligible" is in the middle of a quote I'm  
9 reading, I'm happy to read "unintelligible." But I'm  
10 sure Ms. Ralls is not asking me to read from the  
11 beginning of the page to the end. There's plenty of  
12 places that say "unintelligible." I'm asking about very  
13 specific quotes.

14 But, sure, if Your Honor would like me to  
15 read "unintelligible" in middle of the quote, that's --

16 MS. RALLS: That's what I'm asking.

17 MS. MARTINEZ: Excuse me. The jury has the  
18 transcripts in front of them that say "U/I." The jury  
19 has got in the translation that U/I means  
20 unintelligible.

21 Certainly Ms. Ralls can ask on  
22 cross-examination whether there were unintelligibles in  
23 the conversation, but -- if it's in the middle of the  
24 quote I'm reading.

25 THE COURT: I think what I'll do, I'll point

1 out to the jury that "UI" means unintelligible, and if  
2 the government counsel is not reading "unintelligible,"  
3 that's why.

4 MS. RALLS: That's --

5 THE COURT: I'm not asking you to agree.  
6 That's what I'm going to do.

7 MS. RALLS: All right. Thank you, Your  
8 Honor.

9 (Thereupon, the side-bar conference was  
10 concluded.)

11 THE COURT: Ladies and gentlemen, I want you  
12 to look at 23-A-1. And if you look at page, on number  
13 page two, where it has "abbreviations," and you'll see  
14 italics, spoken in English, "UI, unintelligible." When  
15 you see "UI" in the transcript, like on page 30, in  
16 brackets, that's what that means.

17 And so, the prosecutor may not read "UI,"  
18 but you're reading along with the transcript, and the  
19 transcript is on the screen, so you should notice that  
20 it's there. All right? Thank you.

21 Proceed, Counsel.

22 MS. MARTINEZ: Thank you, Your Honor.

23 BY MS. MARTINEZ:

24 Q. Continuing on page 30, in that same section we  
25 were talking about, Lil Payaso says, "We took him there

1 to rip his coconut off."

2 Who do you understand they took?

3 A. Lil Guasón.

4 Q. And what do you understand Lil Payaso to mean  
5 when he says they took Lil Guasón to rip his coconut  
6 off?

7 A. To rip his head off.

8 Q. Continuing, he says, "So, later I told Tuner with  
9 that homie, Leopardo, they went there." Do you  
10 understand who he's talking about?

11 A. Yes.

12 Q. Who is Tuner?

13 A. Lil Tuner from PVLS, or Lil Pesadilla from PVLS.

14 Q. Is that the one you identified in court?

15 A. Yes.

16 Q. Who is Leopardo?

17 A. He is Leopardo from PVLS, or Gatito from PVLS.

18 Q. Is that someone you identified in court?

19 A. Yes.

20 Q. All right. Then you respond, and as part of your  
21 response you say, "They had already taken that dude to  
22 the park at night before." What do you mean?

23 A. If he's the -- he's been in the park before at  
24 night. That's what I was asking, if he -- if he has  
25 been in the park before.

1 Q. If Lil Guasón has been in the park before?

2 A. Yes.

3 Q. And had Lil Guasón been before in the park before  
4 the day that he was killed?

5 A. Yes.

6 Q. What do you know about that?

7 A. I don't know that much, but they say they used to  
8 go to the park sometimes.

9 Q. For what purpose?

10 A. Sometimes to smoke or, or to chill.

11 Q. And what was Lil Guasón's level in the gang?

12 A. He was just a recruit.

13 Q. Then, Lil Payaso says, "knew where it was" --  
14 unintelligible right before that -- "knew where it was."  
15 What do you understand him to mean?

16 A. Um, that he knows where Lil Guasón was, that day  
17 in the park.

18 Q. Then, a couple lines down, Lil Payaso says, "No,  
19 I didn't tell the homie anything, man, because of the  
20 dough he had taken from Poison's woman." Do you  
21 understand what that means?

22 A. Yes.

23 Q. What does it mean?

24 A. It means that he didn't talk to him, because the  
25 money that he -- they think that he -- Lil Guasón stole

1 from the clique.

2 Q. How much money did Lil Guasón steal from the  
3 clique?

4 A. 600.

5 Q. Your response is, "500 bucks," right?

6 A. Yes.

7 Q. Why did you say 500 instead of 600?

8 A. Just to make sure that's what they were -- they  
9 were pretty much stating that it was 600, see if  
10 anything -- anybody change, or, could be more, could be  
11 less.

12 Q. What did Lil Payaso say?

13 A. It was 600.

14 Q. Was that consistent with what you had learned  
15 from other gang members?

16 A. Yes.

17 Q. Please turn to page 31 and review that page.

18 A. Okay.

19 Q. At the top of the page, Lil Payaso says, "Tuner  
20 went to where he was, and that son of a bitch was kind  
21 of dreaming. 'Don't kill me,' he said that he would  
22 tell him." What do you understand him to mean?

23 A. Lil -- Lil Guasón was dreaming that he was  
24 getting killed.

25 Q. Before he was killed?

1 A. Yes.

2 Q. Continuing more than halfway down the page, Lil  
3 Payaso says, "But they said that the homie was asleep,  
4 was asleep, Tuner, and then, when they went in the room,  
5 so all of a sudden he felt a blow on the face, and he  
6 grabbed him from there." What is Lil Payaso describing?

7 A. He's describing when they went to get Lil Guasón,  
8 and Lil Guasón grab them to tell them, don't kill me;  
9 that he was asleep.

10 Q. Grabbed who?

11 A. Lil Tuner, or Pesadilla, from PVLS.

12 Q. What did Tuner, Pesadilla, do?

13 A. Which part is that part?

14 MS. AUSTIN: Object. If she's asking what  
15 somebody did, there's a conversation going on. What he  
16 understood the conversation to mean, but not -- not  
17 recalling the events that he wasn't even present for.

18 MS. MARTINEZ: Your Honor, his testimony  
19 about the events he was not present for is based on what  
20 the gang members who were present told him about the  
21 events.

22 THE COURT: Well, right now we're reviewing  
23 the transcript. Objection sustained. Focus on the  
24 transcript if that's what you want to use.

25 BY MS. MARTINEZ:



1 Q. Do you know what Pesadilla did during the murder  
2 of Lil Guasón?

3 A. Yes.

4 Q. How do you know what he did during the murder of  
5 Lil Guasón?

6 A. Because he told me.

7 Q. What did he tell you he did during the murder of  
8 Lil Guasón?

9 A. He stab him many times, Lil Guasón.

10 Q. Please turn to page 32.

11 Towards the bottom of page 32, do you see where  
12 Lil Payaso says, "The -- the other hen, the other one,  
13 Lagrimas, man, the homie looks like you, homie"?

14 A. Yes.

15 Q. Do you understand who he was talking about?

16 A. Yes. Lagrima, the one that they kill first.

17 Q. Does Lagrima actually look like you?

18 A. Just, I would say, just tall. That's it.

19 Q. Are you tall, too?

20 A. A little bit.

21 Q. Please turn to page 32 -- or 33, the next page.

22 Please review this page.

23 A. Okay.

24 Q. What is Lil Payaso talking about on this page?

25 A. We were talking about on the day that Lagrima got

1 killed.

2 Q. What does Lil Payaso say about what he did the  
3 day that Lagrima got killed?

4 A. That he went hard to his feet in order to knock  
5 him down.

6 Q. In the longest paragraph in the middle, where Lil  
7 Payaso is talking, he says, "When I saw that he fell  
8 forward, homie, I said to myself, I went for his feet."  
9 What do you understand him to mean by "went for his  
10 feet"?

11 A. That he went to his feet in order to -- Lagrima  
12 to fell down, and probably everybody went after that.

13 Q. He continues and says, "When he fell, dude, I  
14 went at him with everything, homie. Took him down fast,  
15 homie, in the stomach." What do you understand that to  
16 mean?

17 A. That he went -- he went hard on Lagrima in order  
18 to knock him down, and so that Lagrima can stay down.

19 Q. Do you know what happened after they knocked  
20 Lagrima down?

21 A. He said that he -- he hit him in the stomach and  
22 he get the air out of Lagrima.

23 Q. When he says, "hit him in the stomach," what do  
24 you understand that to mean?

25 A. That apparently he kick him really hard in the

1 stomach.

2 Q. Do you know what happened to Lagrima after that?

3 A. Yes.

4 Q. How do you know?

5 A. Because they told me.

6 Q. What -- who's they?

7 A. Members of the PVLS clique.

8 Q. What did they tell you happened to Lagrima after  
9 Lil Payaso knocked him down and went at him?

10 THE COURT: Identify the speakers, please.

11 THE WITNESS: I -- well, one was Greñas.

12 The other one was Leopardo. And I can't remember the  
13 other guys, that they told me that pretty much they cut  
14 him up, they -- they cut him up real bad, and they --  
15 and, they just kill him.

16 BY MS. MARTINEZ:

17 Q. The Greñas and the Leopardo who told you that  
18 they cut up Leo- -- they cut up Lagrima and killed him?

19 A. Yes.

20 MR. AMOLSCH: Objection, Your Honor. May we  
21 approach?

22 THE COURT: All right.

23 (Thereupon, the following side-bar  
24 conference was had:)

25 MR. SALVATO: Your Honor, in response to the

1 Court's inquiry, this witness, despite being instructed  
2 not to, said that Leopardo told him that he was involved  
3 in Lagrima's murder.

4 To add to that problem, Your Honor, the  
5 government had repeated these exact same questions,  
6 eliciting the exact same response, that Leopardo said  
7 that he participated in the killing of Lagrima.

8 The government intentionally asked that  
9 question and elicited that same testimony from the  
10 witness.

11 The Court just wanted to him to identify the  
12 speakers. I understand what the Court was getting at,  
13 but he went way further than that, this witness did.  
14 And then the government followed up and asked him that  
15 precise question again.

16 And he repeated it again. So --

17 THE COURT: Well, the first thing is, let  
18 the government respond.

19 MS. MARTINEZ: Your Honor, I agree that is  
20 what happened, but with some caveats that I don't  
21 think -- and, I'm going on my memory. I don't have a  
22 transcript in front of me.

23 THE COURT: Me either.

24 MS. MARTINEZ: I don't think that he said  
25 that Leopardo killed Lagrima. I think he said that

1      Leopardo described what happened to Lagrima. And, I  
2      understand that that's a small difference, but I think  
3      it's a meaningful difference.

4                      There's been ample testimony by this witness  
5      that there was lots of conversation about what happened  
6      to Lagrima with other gang members who were not  
7      involved.

8                      In fact, he even said that the second murder  
9      victim, Lil Guasón, he said this many times during his  
10     testimony, that the gang told Lil Guasón what they did  
11     to Lagrima.

12                     He also said that they told other people,  
13     other *chequeos*, other members of the gang, what they did  
14     to Lagrima. He described bringing gang members, both  
15     from PVLS and from his clique Silvas, to the park where  
16     Lagrima was killed, and telling them what they did to  
17     Lagrima.

18                     So, I don't think that it's necessarily the  
19     inference, if -- if any gang member said this is what  
20     happened to Lagrima, as opposed to, "This is what I  
21     did," that that gang member necessarily was involved in  
22     that murder.

23                     He may have been, or he may not have been.  
24     He may have been repeating something that was said to  
25     someone else.

1 I certainly acknowledge, Your Honor, that we  
2 did not intend to elicit from this witness at this  
3 moment a statement by Leopardo, by Mr. Salvato's client,  
4 and, I agree that I repeated what the witness said --  
5 and I apologize for doing that -- I did that naturally  
6 as I'm nearing the end of his direct examination.

7 But, I don't think that there was  
8 significant harm here. I think we can move on without  
9 any inference that Leopardo, that Leopardo actually  
10 committed the murder of Lagrima.

11 And keep in mind, too, this is the defendant  
12 who led this witness to both bodies. He clearly -- the  
13 jury clearly understands he has ample knowledge of gang  
14 activity. And he was involved in the reburial of  
15 Lagrima.

16 It's just as easy an inference for the jury  
17 to make someone who is involved in reburying the body,  
18 like this defendant, as they know it, and also Defendant  
19 Gaitan Benitez, who is charged only with reburying the  
20 body, that one who went with the gang to help rebury the  
21 body, and that same one went and killed someone else, he  
22 might have knowledge about the details of the first  
23 murder. And that knowledge could be indirect, it could  
24 be from other gang members.

25 MR. SALVATO: Your Honor, I think the Court

1 has to review these, this question and answer, as I  
2 remember it differently than how the government just  
3 recited.

4 THE COURT: I had impression that the  
5 question that was asked was: What did he tell you what  
6 had happened to Lagrima?

7 And I asked him: Who were the speakers?

8 And he was telling us what the gang members  
9 told him about what happened, not about who did what.  
10 It's who told him about what happened to Lagrima.  
11 That's what I remember.

12 MR. SALVATO: The way I remember it -- and  
13 perhaps other counsel can chime in -- then Ms. Martinez  
14 asked a follow-up question, and he specifically said, he  
15 specifically said, that Leopardo told him that he had  
16 killed Lagrima, or words to that effect.

17 I think the Court has to look at what  
18 exactly this witness says.

19 THE COURT: Well, am I right?

20 MS. AUSTIN: I can't recall.

21 THE COURT: I don't think we need to do  
22 anything just yet about it. I don't think that it is --  
23 from the standpoint of what you are describing, even if  
24 it were prejudicial, this witness was asked: What did  
25 the gang tell you?

1 And I asked him to identify the speakers who  
2 he talked to. It was not like, who did what in  
3 connection with the killing. That's what I recall.

4 So I'm not going to do anything. Thank you.

5 (Thereupon, the side-bar conference was  
6 concluded.)

7 BY MS. MARTINEZ:

8 Q. What do you understand happened to Lagrima after  
9 Lil Payaso knocked him down and went for his feet?

10 A. They kill him.

11 Q. Why were you meeting with Lil Payaso and  
12 Pesadilla on this day of this recording?

13 A. We were going to help them to jump two new gang  
14 members to his clique.

15 Q. What do you mean by jump members into the clique?

16 A. They had two recruits from Baltimore, and they  
17 say they were ready to be jumped into the clique.

18 Q. And you met them for that purpose?

19 A. Yes.

20 Q. Did the jump in actually happen?

21 A. No.

22 Q. Why not?

23 A. Because I was not allowed to be in any violence  
24 activity.

25 Q. How did you manage to stop the jump in from



1 happening?

2 A. Um, we coordinate with agents, that it was going  
3 to be a car on the park, and that -- that way we going  
4 to get spooked and we were going to decide not to do  
5 anything.

6 Q. Did it work?

7 A. Yes.

8 Q. Where did this meeting occur?

9 A. Woodbridge.

10 Q. Do you remember where in Woodbridge?

11 A. Veterans Park.

12 MS. MARTINEZ: Could we please show the  
13 witness Government's Exhibit 84-A and 84-B.

14 BY MS. MARTINEZ:

15 Q. Do you recognize those pictures?

16 A. Yes.

17 Q. Where are they from? Or when are they from?

18 A. It's when we meet at the park, at Veterans Park.

19 Q. For this recording?

20 A. Yes.

21 Q. Do you recognize the individuals in the pictures?

22 A. Yes.

23 MS. MARTINEZ: Your Honor, the government  
24 moves into evidence 84-A and 84-B.

25 THE COURT: Received.

1 MS. MARTINEZ: May we publish?

2 THE COURT: Yes.

3 MS. MARTINEZ: Let's start with 84-A.

4 BY MS. MARTINEZ:

5 Q. Who are these people?

6 A. That would be myself and Lil Payaso from PVLS.

7 Q. Who is facing the camera?

8 A. Lil Payaso from PVLS.

9 Q. Please turn to 84-B. Who is that individual?

10 A. Lil Tuner from PVLS, or Pesadilla from PVLS.

11 MS. MARTINEZ: No further questions, Your  
12 Honor.

13 THE COURT: You may proceed.

14 CROSS-EXAMINATION

15 BY MR. LEIVA:

16 Q. Good afternoon, Mr. Garcia.

17 A. Good afternoon.

18 Q. We don't have that much time left, but let's see  
19 what we can do here. All right?

20 A. Okay.

21 Q. All right. So, let's start off with some of the  
22 simple stuff. You were a member of Silvas, right?

23 A. Yes.

24 Q. And, I believe you said that the abbreviation for  
25 Silvas was SLS?

1 A. Yes.

2 Q. All right. And SLS operated in the DC  
3 Metropolitan Area, right?

4 A. Virginia.

5 Q. Virginia.

6 What specific sectors in Virginia?

7 A. Could be anywhere in Virginia.

8 Q. All right. Could be anywhere.

9 So you guys were that big, that you guys operated  
10 wherever you wanted?

11 A. I did not say we were that big. It's just --

12 Q. Okay.

13 A. -- wherever they feel like they going to go.

14 Q. All right. So, you guys, wherever you felt you  
15 wanted to go, you had the muscle and the numbers to go  
16 wherever you wanted to go?

17 A. No, because, you could be only three, and not  
18 necessarily you have the muscle to go anywhere.

19 Q. All right. So, you're telling me you don't know  
20 what sectors you guys controlled?

21 A. Like I said, they can go anywhere they want.

22 Q. Okay. All right. Well, we'll get to that a  
23 little later, then, since you were the leader of Silvas.  
24 So, you were a member of Silvas since 2002?

25 A. Yes.

1 Q. All right. And you got jumped in in El Salvador  
2 or you got jumped in here in the United States?

3 A. I got jumped in here.

4 Q. You got jumped in here. All right.

5 And you would agree with me that Silvas, at least  
6 in this area, was known as a violent clique of MS-13,  
7 right?

8 A. Yes.

9 Q. You guys had that reputation, right?

10 A. MS-13 has a reputation. All the cliques have the  
11 reputation.

12 Q. My question is about Silvas.

13 A. Yes.

14 Q. You guys had that reputation?

15 A. Yes.

16 Q. You guys worked at getting that reputation.

17 A. Yes.

18 Q. All right. And, you've been in -- and you were  
19 in Silvas, I guess, for about 12 years, right?

20 A. Yes.

21 Q. I'm assuming you're out now, or you're still in?

22 A. Well, I never was -- well, never thought I was.

23 Q. You never thought that you were what?

24 A. A gang member. Because that's not the type of  
25 life that I want.

1 Q. All right. So you got jumped in, right?

2 A. Yes.

3 Q. In order to become a gang member, right?

4 A. Yes.

5 Q. You did stuff on behalf of the gang, right,  
6 during that 12-year period that you were with the  
7 Silvas?

8 A. Um, you need to be specific what stuff I did.

9 Q. All right. Did you do criminal activity while  
10 you were with the Silvas?

11 A. At times we were just hanging out, party,  
12 drinking.

13 Q. Okay. Well, we will get into more of the details  
14 of what you did, okay, and what you claim you didn't do.

15 A. All right.

16 Q. And then at some point, then you also became a  
17 leader of the Silvas, right?

18 A. Yes.

19 Q. Okay. But you're telling us today that you did  
20 not consider yourself an MS-13 gang member all that  
21 time?

22 A. Um, I didn't like it, to tell you the truth. But  
23 I got jumped in because I know the guys. But, I -- I  
24 didn't, to tell you the truth, I didn't like the MS-13.

25 Q. All right. Let's talk about the structure of

1 MS-13, since you've been in MS-13 for 12 years. All  
2 right?

3 You have the first word, right?

4 A. Not for 12 years.

5 Q. No, no. I'm saying, since you've been in the  
6 gang for 12 years, I'm going to ask you questions about  
7 the structure of MS-13.

8 A. Okay.

9 Q. Okay. So, within a clique, you have the first  
10 word, right?

11 A. Yes.

12 Q. And the first word basically is the leader of  
13 that clique?

14 A. Yes.

15 Q. All right. And, then you have the second word,  
16 right?

17 A. Yes.

18 Q. And the second word is the second in command of  
19 that clique?

20 A. Yes.

21 Q. All right. And the soldiers are the other  
22 members in that clique?

23 A. Yes.

24 Q. All right. And, the soldiers have to follow what  
25 the first word or the second word says?

1 A. Yes.

2 Q. All right. In other words, it's not a democracy.  
3 You guys don't take votes.

4 A. No.

5 Q. They do what the first word and the second word  
6 say?

7 A. Yes.

8 Q. Okay. And they can't disagree with the decisions  
9 that you guys make --

10 A. Yes.

11 Q. -- right?

12 And if they decide to voice their disagreement  
13 with the decisions that the first word or the second  
14 word makes, that's -- that's looked upon as a sign of  
15 weakness, isn't it?

16 A. Yes.

17 Q. All right. And they can get punished for openly  
18 disagreeing with you guys?

19 A. Yes.

20 Q. And when I mean "you guys," I mean the first word  
21 or the second word.

22 A. Yes.

23 Q. Now, you also talked about green light. There  
24 are several different terms in Spanish for a green  
25 light, right?

1 A. Um --

2 Q. *Luzon*, have you ever heard of that term?

3 A. Yes.

4 Q. That's l-u-z-o-n?

5 A. Yes.

6 Q. All right. *Farol*, f-a-r-o-l?

7 A. Yes.

8 Q. All right. *Lucesitas*, l-u-c-e-s-i-t-a-s?

9 A. Tell you the truth, I never heard of that one.

10 Q. You never heard of that one. Okay.

11 *La luz*?

12 A. Yes.

13 Q. Okay. And that's l-a, separate word is l-u-z.

14 A. Yes.

15 Q. All right. And those are terms that are specific  
16 for green light, right?

17 A. Yes.

18 Q. In other words, you can't confuse those terms for  
19 anything else?

20 A. It just depend how you use them.

21 Q. All right. So are you saying that -- that when  
22 somebody, homeboy uses the word *luz* or *luzon* or any of  
23 those other terms that I just mentioned, it  
24 means something -- it could mean something other else --  
25 something else other than green light?



1       A.    Yeah.  Let's say they driving a car, "I'm at the  
2   *luz*," that means, I'm at the light.  It doesn't mean  
3   that someone has a green light.

4       Q.    But when you're talking -- I understand that.  
5   Okay.

6            But when you're talking to a homeboy --

7       A.    Yes.

8       Q.    -- about punishment, let's say, let's say that  
9   the issue is punishing a homeboy --

10      A.    Yes.

11      Q.    -- and one of those terms are used, does that  
12   mean a green light or does that mean something else?

13      A.    That means that the, the person is going to get  
14   killed.

15      Q.    Okay.  And you also testified that all green  
16   lights are ordered from El Salvador, right?

17      A.    Most of them.

18      Q.    Most of them.

19            And, when we say El Salvador, we're talking about  
20   the *mesa* in El Salvador, right?

21      A.    Yes.

22      Q.    That's m-e-s-a.

23      A.    Yes.

24      Q.    And a *mesa*, just to kind of explain things to  
25   Judge Lee and the members of the jury, that's like a

1 board of directors, isn't it?

2 Do you know what that means?

3 A. Yes.

4 Q. Board of directors of a company?

5 A. Yes.

6 Q. Right?

7 And the *mesa* consists of different leaders of  
8 different cliques of MS-13?

9 A. Yes.

10 Q. And, they are the ones who make the decision if  
11 someone gets green lighted or not?

12 A. Not really. They can -- because remember, each,  
13 each guy goes to that *mesa*, that you call them, to  
14 represent the clique, but that doesn't mean that they  
15 had to make the decision on their clique. That's why  
16 they have the shot caller.

17 Q. And so, shot callers make up this *mesa* or this  
18 board of directors?

19 A. Yes.

20 Q. All right. And that's because green lights are  
21 taken very seriously within MS-13.

22 A. Yes.

23 Q. All right. In other words -- and let's -- let's  
24 start being honest here. MS-13 is a business now, isn't  
25 it?

1           A.    I'm not sure of that.

2           Q.    Right?

3                   It's not just a bunch of guys running around  
4           beating up other guys, right?

5           A.    It's a business. It's just depend on the people  
6           you're dealing with. If you're dealing with people from  
7           El Salvador, it's just a business from people up here.

8           Q.    It's a business. And, of course, killing  
9           unnecessarily affects one's business. Would you agree  
10          with that?

11          A.    Yes.

12          Q.    Right?

13                   And so that's why the people, the board of  
14          directors, this *mesa*, have taken the power away from the  
15          local guys and said, "Any green light that's ordered has  
16          to come from us."

17          A.    I'm not sure of that.

18          Q.    What do you mean, you're not sure of that? You  
19          have a direct line to El Salvador.

20          A.    But, they -- I was not -- they never told me to  
21          do something. And like you say, I was the leader of  
22          2012, 2014, and as far as I know, I never follow  
23          anything that they say from El Salvador.

24          Q.    You never follow anything that they said from El  
25          Salvador?

1 A. Nope.

2 Q. All right. So then the rules aren't that  
3 concrete then. You don't have to follow what El  
4 Salvador says. Is that what you're testifying?

5 A. It just depends. Remember, each clique, it's not  
6 all the cliques, and whoever is in El Salvador  
7 representing your clique, that will also play a big  
8 role.

9 Q. All right. So, let's go back to this *mesa*, all  
10 right? You at some point were the first shot or the  
11 first word of the Silvas, right?

12 A. Yes.

13 Q. So did you have a seat at that *mesa*?

14 A. Nope.

15 Q. Okay. But you had a direct line to the members  
16 of that *mesa*?

17 A. Tell the truth, there was one guy -- there were  
18 like three persons over there, and, I never got along  
19 with pretty much none of them. So, I didn't -- I didn't  
20 ask them for any -- anything at all.

21 Q. Let me rephrase the question then. All right?  
22 If any message wants to get back to El Salvador or to  
23 members of the *mesa*, it goes to the first word of the  
24 local clique --

25 A. Yes.

1 Q. -- right?

2 In other words, a regular soldier, a homeboy,  
3 can't call up El Salvador and talk to one of the  
4 higher-ups there?

5 A. If they allow to, they can do that.

6 Q. But the rules are, okay, because you made it  
7 sound like there are strict rules that need to be  
8 followed --

9 A. Yeah.

10 Q. -- the rules are that a first word from a clique  
11 is the one who contacts El Salvador?

12 A. Yes.

13 Q. All right. And let's talk about these rules.  
14 You said that to become a homeboy, you need to kill  
15 somebody.

16 A. Yes.

17 Q. Right?

18 And that rule was instituted how long ago? Ten  
19 years ago?

20 A. No. It was -- I would probably -- I learned it  
21 probably 2008, 2009.

22 Q. 2008, 2009. All right.

23 So in addition to jumped in --

24 A. Yes.

25 Q. -- you also had to prove your loyalty by killing

1 somebody?

2 A. Yes.

3 Q. And, you also testified that another rule of  
4 MS-13 -- and by the way, there are about 213 rules in  
5 MS-13. Would you agree with that?

6 A. I don't know all of them, so, I cannot tell you  
7 for sure.

8 Q. Well, I'm not asking you to recite what the rules  
9 are. I'm asking you whether you agree that there are  
10 about 213. Let's say, give or take a dozen, there's  
11 over 200 rules in MS-13.

12 A. Okay.

13 Q. Are you agreeing with me?

14 A. Like I say, I'm not sure how many rules. Sorry,  
15 I cannot agree with you. I can tell you the ones that I  
16 know.

17 Q. Okay. So, one of the rules you testified to was  
18 that you can't cooperate with the government or with law  
19 enforcement.

20 A. Yes.

21 Q. Right?

22 And, one of the reasons why -- one of the  
23 punishments that one could receive if they cooperate is  
24 that the person who is cooperating could be killed?

25 A. Yes.

1 Q. And the person's family could be killed?

2 A. Yes.

3 Q. All right. And, by "cooperation," MS-13 has  
4 taken a very strict view of what "cooperation" means,  
5 right?

6 A. Yes.

7 Q. In other words, that if -- if a homeboy is  
8 accused of a crime and he didn't do it, he can't take  
9 the stand and say, "It wasn't me," if it means that he  
10 has to divulge who it actually was, right?

11 A. I would say yes.

12 Q. And let's talk about this. You also testified  
13 about you can't leave MS, all right? And when you say  
14 you can't leave MS, you're saying you can't quit MS.

15 A. Yes.

16 Q. All right. But there is such a thing as taken  
17 inactive status. You've heard of that, right?

18 A. Yes.

19 Q. All right. And "inactive status" means that you  
20 ask MS-13 for permission not to be active any more.

21 A. Yes.

22 Q. Right?

23 And, there are many reasons why someone can be  
24 granted an inactive status in MS-13?

25 A. Yes.

1 Q. All right. One is that you've become a Christian  
2 and --

3 A. Yes.

4 Q. -- you found God and you no longer want to be an  
5 MS-13.

6 A. Yes.

7 Q. Right?

8 Another one is that you get married and have kids  
9 and you have a family to take care of?

10 A. That would just depend on the clique. Not all  
11 the cliques do that.

12 Q. All right. What other reasons are there to grant  
13 someone inactive status in MS-13?

14 A. Just -- just become a Christian. That's the only  
15 one I know.

16 Q. You also testified that one of the rules of MS-13  
17 was -- is that you couldn't sleep with another homeboy's  
18 girlfriend.

19 A. Yes.

20 Q. All right. Do you mean that you can't sleep with  
21 someone's wife, or you're saying it also includes  
22 girlfriend?

23 A. Also includes girlfriend.

24 Q. Girlfriend.

25 But you guys are notorious for having a lot of



1 girlfriends. You would agree with that, right?

2 A. Yes.

3 Q. All right. You guys would sometimes have three,  
4 four, five girls at a time?

5 A. Not me, but yes, the gangs, yes.

6 Q. All right. All right. So, you're telling me  
7 that MS was so concerned about a homeboy sleeping with  
8 one of your three to five girlfriends, that it meant you  
9 lose your life for it? Is that what you're saying?

10 A. But you got to understand, there is something  
11 that got to -- there is a rule that probably a homeboy  
12 will come up and say, "That's my girl," like, you need  
13 to respect that. And there is some homeboys that say,  
14 "No, that's not my girl. You can -- you can have her if  
15 you want to."

16 Q. And that's what I'm getting at. That's why I  
17 needed clarification. So you have your girl who is your  
18 special person, right?

19 A. Yes.

20 Q. She's the one that you treat differently from  
21 everyone else --

22 A. Yes.

23 Q. -- right?

24 And then you have all the other girls that you  
25 have on the side.

1 A. Yes.

2 Q. All right. So --

3 MS. MARTINEZ: Your Honor, at this point I'm  
4 going to object. Mr. Leiva keeps saying you, you, you.  
5 I think he needs to be clear if he is asking this  
6 witness about him personally, or if he's using "you"  
7 collectively, to mean gang members.

8 MR. LEIVA: I think --

9 MS. MARTINEZ: Otherwise, I believe that the  
10 record will be unclear, and I suspect that Mr. Leiva  
11 will take quite advantage of that.

12 MR. LEIVA: No, Your Honor. I think I was  
13 using the collective term "you."

14 THE COURT: Well, if you would --

15 MR. LEIVA: I will.

16 THE COURT: -- specify "the gang," if that's  
17 what you mean --

18 MR. LEIVA: All right.

19 THE COURT: -- and if you mean "you," him  
20 personally --

21 BY MR. LEIVA:

22 Q. If we can do this, Mr. Garcia: When I say "you,"  
23 I'm going to refer to the gang. Okay? And if it would  
24 be specific to you, then I'll let you know that.

25 A. I would prefer for you to use "the gang," and

1 then you can --

2 Q. All right. All right.

3 So, the homeboys in MS-13, they have their, as I  
4 said, their special girl, right? And then they have the  
5 girls who they see on the side.

6 A. Yes.

7 Q. All right. And, this rule that you're talking  
8 about, that you cannot sleep with someone else's  
9 girlfriend, you're talking about that one special girl?

10 A. Yes.

11 Q. Not the girls that they have on the side?

12 A. No.

13 Q. All right. Another rule, of course, with MS-13  
14 is that you -- when you -- you have to fight other rival  
15 gang members?

16 A. Yes.

17 Q. All right. So, if you're walking down the  
18 street, you and your homeboys, and you run into a rival  
19 gang member, you're supposed to fight?

20 A. Yes.

21 Q. You can't talk your way out of not fighting that  
22 gang member.

23 A. No.

24 Q. Right?

25 You see him on the spot, it's -- you have to go

1 and attack him?

2 A. Just depending if there's altercation or they see  
3 a police. Some people, they just wait until the police  
4 leave, or some people, they --

5 Q. All right.

6 A. -- they start fighting.

7 Q. So, assuming that there's no police officer and  
8 you're with your homeboys and you see a *chavala*, an 18th  
9 Street gang member, you're supposed to fight?

10 A. Yes.

11 MS. MARTINEZ: Your Honor, I object to the  
12 use of "you" again, Your Honor.

13 BY MR. LEIVA:

14 Q. MS-13 is supposed to fight?

15 A. Yes.

16 THE COURT: Sustained.

17 BY MR. LEIVA:

18 Q. And, you also testified that a rule was that you  
19 could not steal from a gang?

20 A. Yes.

21 Q. Or from MS-13?

22 A. Yes.

23 Q. And, when you say "steal," you mean you can't  
24 steal drugs from them?

25 A. Yes.

1 Q. You can't steal any money from them?

2 A. Yes.

3 MS. MARTINEZ: Your Honor, objection.

4 BY MR. LEIVA:

5 Q. MS-13.

6 MS. MARTINEZ: Again, he's saying "you" as  
7 if this witness is responsible solely for all of MS-13.

8 MR. LEIVA: Your Honor, what I said was  
9 MS-13.

10 THE COURT: Well, I think you're making him  
11 your expert. And if you want to do that, that's fine.  
12 But you're going to have to use the word "MS-13" in each  
13 preface to the question --

14 MR. LEIVA: Yes, sir.

15 THE COURT: -- if you would. Thank you very  
16 much.

17 MR. LEIVA: Thank you, sir. I apologize.

18 THE COURT: Objection sustained.

19 BY MR. LEIVA:

20 Q. Let me go back to the last question.

21 And a rule is that MS-13, that an MS-13 member  
22 cannot steal drugs from their clique or their group or  
23 their gang?

24 A. Yes.

25 Q. They can't steal property?

1 A. Yes.

2 Q. So, let's talk about now your involvement as an  
3 informant for the FBI. You've been an informant for  
4 about ten years?

5 A. Yes.

6 Q. All right. And, when did you become second word  
7 for the Silvas?

8 A. I was never second word.

9 Q. So, you jumped from homeboy status straight to  
10 first word?

11 A. Yes.

12 Q. And, as far as, let's call them procedures for  
13 MS-13, you have to earn the first word status. Would  
14 you agree with that?

15 A. Um, not really.

16 Q. Not really?

17 A. No.

18 Q. All right. Well, let's put the "not really"  
19 aside and let's focus on the other part of that, which  
20 is, sometimes you do have to earn --

21 A. Yes.

22 Q. -- status, right?

23 A. Yes.

24 Q. Like what kind of stuff does one need to do in  
25 MS-13 to be elevated to first word status?

1       A.    Um, I would say it -- it just depend on the  
2    clique. Let's say the clique, they don't have that many  
3    soldiers and there are just these two or three guys,  
4    they going to go with the guy who -- who has been in the  
5    clique the most. And that will be one -- one of -- for  
6    each clique, is different.

7       Q.    All right. And, El Salvador is the one who  
8    chooses the first word of a clique. Would you agree  
9    with that?

10      A.    Um, yes.

11      Q.    And, so, by you becoming first word of the  
12    Silvas, that meant that the *mesa* in El Salvador chose  
13    you?

14      A.    No.

15      Q.    All right. Someone higher up in El Salvador  
16    chose you --

17      A.    No.

18      Q.    -- to be the first word?

19      A.    No.

20      Q.    No.

21      A.    He asked me if -- the guys over here, they -- I  
22    want to be the first word. And, first I -- I went to my  
23    handler to talk about it, what can we do in order to,  
24    you know, to approach the situation?

25      Q.    All right. So, you became first word of Silvas

1 back when?

2 A. 2012.

3 Q. 2012.

4 A. 2012. 2012, 2013, I cannot recall.

5 Q. And before that period, you were just a regular  
6 soldier, you were just a regular homeboy?

7 A. Yes.

8 Q. And, as a regular soldier or homeboy, you're  
9 expected to produce for the gang, right?

10 A. Yes.

11 Q. You're expected to sell drugs for the gang?

12 A. Um, if you have a job, they probably -- they  
13 would just ask you for money. If you're on the street,  
14 of course, they're going to ask you --

15 Q. You're expected, when you see a *chavala*, you're  
16 supposed to fight with the *chavala*?

17 MS. MARTINEZ: Again, objection to "you."

18 MR. LEIVA: Well, this one I'm asking  
19 specifically to him now.

20 THE COURT: Okay. Well, make the question  
21 specific to him. Ask if he sees somebody. Go ahead.

22 MR. LEIVA: Yes.

23 BY MR. LEIVA:

24 Q. When you're a regular soldier, you were expected,  
25 if you saw a *chavala*, you were supposed to fight the



1 *chavala?*

2 A. I -- not me.

3 Q. Not you. All right. So you didn't fight with  
4 the *chavalas*.

5 Did you sell drugs during that time that you were  
6 with the Silvas clique?

7 A. No.

8 Q. Didn't sell drugs, either?

9 A. No.

10 Q. Did you participate in extorting money from  
11 people while you were a member of the Silvas?

12 A. No, not that I remember.

13 Q. Didn't do that either.

14 Did you participate in any form of prostituting  
15 individuals while you were a member of the Silvas?

16 A. No.

17 Q. Didn't do that either?

18 A. Nope.

19 Q. All right. Well, what else is there to do in  
20 MS-13?

21 If you're not fighting *chavalas*, right?

22 You're not selling drugs, right?

23 THE COURT: Compound question.

24 BY MR. LEIVA:

25 Q. Well, what criminal activity were you involved

1 in --

2 A. Well, at that time --

3 (Simultaneous speaking.)

4 Q. -- were with the Silvas?

5 A. At that time when I was involved with them, we  
6 pretty much -- we used to go to clubs and, yeah, we used  
7 to get -- get into a fight; but not necessarily means  
8 that it was a rival gang. Could be a drunk guy that we  
9 thought that he was disrespectful, we used to get into a  
10 fight.

11 Most of the time when I was with them, it just  
12 was fighting. We knew that there were a lot of shooting  
13 or criminal activity from different other cliques, but  
14 that doesn't mean that I was part of it.

15 Q. All right. So, you're making it sound like your  
16 particular clique was more of a social club.

17 A. At that time, that's what it was, pretty much.

18 Q. That's what it was.

19 A. Yes.

20 Q. So, you guys were more of a social club.

21 But you had agreed with me earlier that you guys  
22 had a reputation as being a violent --

23 A. Yes --

24 Q. -- the Silvas --

25 MS. MARTINEZ: Objection --

1 (Simultaneous speaking.)

2 THE WITNESS: -- that was the gang.

3 MS. MARTINEZ: -- compound question.

4 THE COURT: Sustained.

5 THE WITNESS: That was the MS-13, yes.

6 BY MR. LEIVA:

7 Q. But I asked you earlier if the Silvas had a  
8 reputation for being a violent clique, and --

9 A. Yes.

10 Q. -- you agreed. And you said yes.

11 A. Yes.

12 Q. All right. But you're saying, really, you guys  
13 were just more of a social club?

14 A. Yes. I mean, remember, at that point, from 2002  
15 to 2012, doesn't mean that I was there with them all the  
16 time. I wasn't all the time with them. So, if they --  
17 they could have become more crazy, but doesn't mean that  
18 I was with them at that time.

19 Q. You were the exception, is what you're saying?

20 A. Wasn't exception. I would say I was the smartest  
21 one.

22 Q. You were the smartest one.

23 So, as the smartest one -- or let me -- let me  
24 strike that.

25 So, it sounds like during that whole decade, you

1 didn't participate in any criminal activity.

2 A. I'm not saying that.

3 Q. All right. Other than maybe getting in  
4 drunks with -- in fights with some drunks at clubs?

5 A. Yes.

6 Q. All right. And, somehow the homeboys thought  
7 that you were leadership material --

8 A. Yes.

9 Q. -- right, that they elevated you to the position  
10 of running a criminal organization?

11 A. Yes.

12 Q. Now, you testified back in 2006 --

13 A. Yes.

14 Q. -- on a murder, right?

15 And it was in court just like this?

16 A. Yes.

17 Q. And, it was in open court just like this?

18 A. Yes.

19 Q. And, you testified on behalf of the government?

20 A. Yes.

21 Q. I'm sure after that, Mr. Garcia, there were  
22 probably some rumors that were spread about you, right?

23 A. Yes.

24 Q. In the MS-13 community?

25 A. All the time.

1 Q. Yeah.

2 And there were rumors that were spread about you,  
3 that you were a snitch?

4 A. Yes.

5 Q. All right. And, I'm sure you had to do something  
6 to -- to quell those rumors. Do you understand what I  
7 mean by that?

8 A. Not at that time. I didn't have to do anything.

9 Q. All right. So, people had confronted you and  
10 said, "Hey, listen, homie, we hear that you're a  
11 snitch." Is that true?

12 A. Someone -- I heard rumors, that, yes.

13 Q. And, as you previously testified, that if you're  
14 a snitch, you get green lighted?

15 A. Yes.

16 Q. All right. So, I'm assuming, then, that you had  
17 to prove your loyalty to the gang, didn't you?

18 A. No.

19 Q. No?

20 So, people in MS-13 were confronting you about  
21 being a snitch, and no one told you you had to commit an  
22 act to prove yourself?

23 A. They -- they didn't have anything concrete that I  
24 was a snitch. They were just gossiping around. It's  
25 pretty much they didn't have any paper on me that says I

1 was a snitch.

2 Q. But they had the guys who you testified against  
3 saying that you testified against them?

4 A. Not really. As far as I know, I don't remember,  
5 I don't recall that the guy I testify, he says that I  
6 was.

7 Q. All right. Given your experience in MS-13, guys  
8 talk a lot in the jail. Would you agree with that?

9 A. Yes.

10 Q. They pass information about who served as  
11 witnesses against them?

12 A. Yes.

13 Q. All right. And your belief is that the two  
14 guys -- is it one guy or two guys that you testified  
15 against?

16 A. It really was just one.

17 Q. That the one guy who you testified against,  
18 didn't tell the other homeboys that you had snitched on  
19 him?

20 A. I'm not sure if he did.

21 Q. You're not sure.

22 And just to be clear, you weren't sent on a  
23 mission to prove your loyalty to MS-13 -- (pause) --

24 THE COURT: I was waiting for him to finish  
25 his question.

1 MR. LEIVA: He threw me off, Your Honor. We  
2 can take the break.

3 THE COURT: He did it on purpose.

4 MR. JENKINS: I apologize.

5 THE COURT: Okay.

6 Ladies and gentlemen, we're going to recess  
7 for the evening. Please do not discuss the case. Don't  
8 permit the case to be discussed in your presence. Leave  
9 your notes in the jury deliberation room.

10 I say this every night because I want you to  
11 do just what I'm saying.

12 We will see you tomorrow at 10:00 a.m.

13 Thank you.

14 If you all will remain in place, Counsel.

15 (Jury excused at 5:00 p.m.)

16 THE COURT: You may be seated.

17 So, I have two questions for -- you can step  
18 aside.

19 I want to ask the government counsel a  
20 question and I want to ask Mr. Aquino a question.

21 So, Ms. Martinez, what am I supposed to do  
22 with this declaration?

23 MS. MARTINEZ: Your Honor, the declaration  
24 is in response to Your Honor's order asking for  
25 information.

1 THE COURT: Okay.

2 MS. MARTINEZ: The government is not asking  
3 you to do anything. We were trying to comply with Your  
4 Honor's order. We thought this was the most prudent way  
5 to do so --

6 THE COURT: Okay.

7 MS. MARTINEZ: -- directly from the SAC,  
8 with the policies attached.

9 Your Honor --

10 THE COURT: He's excused. I'm sorry. I  
11 didn't see him sitting there. I'm sorry. I apologize.

12 MS. MARTINEZ: I didn't notice either, Your  
13 Honor. Sorry. Fortunately, it wasn't relevant to this  
14 witness.

15 THE COURT: No, it's not.

16 (Thereupon, the witness withdrew from the  
17 stand.)

18 THE COURT: This is just in response to my  
19 order.

20 MS. MARTINEZ: It is just in response to  
21 your order, Your Honor.

22 THE COURT: All right.

23 Mr. Aquino? Tell me what you want to do  
24 with this, and how do you -- how would you intend to do  
25 it.



1 MR. AQUINO: Sure. We want to admit that  
2 into evidence. That is a document that comes from the  
3 Department of Justice. And, in particular, that is a,  
4 an assessment of the foreign language program conducted  
5 by the FBI.

6 So, what we're asking that you do is to come  
7 in on the issue -- into evidence on the issue of the --  
8 how much the jury should rely upon the testimony of  
9 those linguist monitors.

10 Now --

11 THE COURT: Your theory of admissibility is  
12 what?

13 MR. AQUINO: The theory of admissibility,  
14 and what we're asking the Court to do is, that is a  
15 document from the Department of Justice. Okay? We  
16 believe it's relevant to the reliability -- not on the  
17 admissibility; you've already ruled on that -- but on  
18 the reliability and -- of those linguist monitors.

19 THE COURT: So, your theory is because it's  
20 from the FBI, it's admissible?

21 MR. AQUINO: I'm sorry?

22 THE COURT: Is your theory because it's from  
23 the FBI, it's admissible?

24 MR. AQUINO: I'm saying it's admissible  
25 because it's relevant in this case.

1 THE COURT: That's not my question. I  
2 understand why you think it's relevant. My question is:  
3 What is your theory of admissibility?

4 MR. AQUINO: On the authentication of that  
5 document, if that's what your getting at, is --

6 THE COURT: Well, the Federal Rules of  
7 Evidence require that predicate be laid. I can't just  
8 give this to the jury without knowing your theory of  
9 admissibility. So I'm asking: What is your theory of  
10 admissibility?

11 MR. AQUINO: The admissibility on this issue  
12 is that there has been cross-examination on the issue of  
13 the reliability of the linguist monitors that came last  
14 week.

15 And so, the point of those documents is  
16 simply to show the FBI's -- or the Inspector General's  
17 position on the reliability of those linguist monitors'  
18 testimony.

19 THE COURT: Okay. I'm going to recess and  
20 give you a chance to answer the question tomorrow.  
21 Thank you.

22 (Proceedings concluded at 5:03 p.m.)

23 ---  
24  
25

CERTIFICATE OF REPORTER

I, Renecia Wilson, an official court reporter for the United States District Court of Virginia, Alexandria Division, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had upon the jury trial in the case of UNITED STATES OF AMERICA v. JOSE LOPEZ TORRES, et al.

I further certify that I was authorized and did report by stenotype the proceedings in said jury trial, and that the foregoing pages, numbered 1 to 244, inclusive, constitute the official transcript of said proceedings as taken from my shorthand notes.

IN WITNESS WHEREOF, I have hereto subscribed my name this 15th day of May, 2016.

/s/

Renecia Wilson, RMR, CRR  
Official Court Reporter